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THE IDEA OF JUSTICE IN POLITICAL ECONOMY.*

Is there a just distribution of economic goods? Or should there be? This is a question which is raised again to-day, a question which has been asked as long as human society and social institutions have existed. The greatest thinker of ancient history asked the question and thousands after him have repeated it, sages and scholars, great statesmen and hungry proletarians, thoughtful philanthropists and enthusiastic idealists.

To-day the question seems less opportune than ever. Even those who pride themselves on their idealism declare it to be one of the useless questions which nobody can answer.

Aristotle's ideas of distributive justice are looked down upon as antiquated and set aside by the progress of science. Comparing superficially the phenomena of nature with the

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social processes, Darwin's theory of the struggle for existence, which permits the strong to oppress the weak and excludes all possibility of a just distribution of earthly possessions, is brought into play. Many political economists also disregard the question, the more so the further they are removed from philosophical inquiries, and the more they delve into special questions remaining, despite many concessions to modern schools, in their fundamental views in the beaten paths of English and German dogmas, which know no other categories than demand and supply. They have, as a rule, a vague, half-conscious feeling that socialism demands a juster distribution of goods, and hence the conservative citizen and friend of order has no choice but to oppose this idea. Those who harbor such thoughts and feelings place themselves, it is true, in the sharpest contrast to the great founders of modern social science.

No one was ever more convinced that his proposed reforms would effect a more just or indeed an absolutely just distribution of goods than Adam Smith or Turgot, or their sincere followers. Faith in the justice of its demands was the backbone of the economics of natural law. As a consequence of "natural freedom and justice," Adam Smith requires freedom of migration and trade. To the greatest disciple of Adam Smith, for thus have Ricardo's ideas been recently correctly summarized, free individual competition appears to be truest justice to all laboring humanity. This is not accidental. No great social or economic reform can conquer the sluggish resistance which opposes it by merely showing its utility. Only when it can be made to appear that what is demanded is the demand of justice, does it inflame and move the masses. For years I have watched in public discussions and in economic publications when and where the question of justice was drawn into economic matters, and I have found that involuntarily it occurs almost everywhere. In discussing the bank question, the opponent of unsecured notes declares them to be an injustice; when duties are proposed, the free-trader

claims first that they are unjust, then immoral, and only in the third place that they are economically harmful. In all discussions about the change in the German customs policy of 1878, both sides tried to prove that what the opponent desired especially injured the working man and the small capitalist, and thus affected in the most unjust way the distribution of income and wealth. A well-known politician, who declares the discussion of justice in the distribution of income and wealth to be superfluous, falls into the same mistake with which he reproaches his opponents, in his polemic against Marx. He declares the present distribution of wealth in Germany to be legitimate, because it was not the possession of colonies, not the work of slaves, but the honest labor of German citizens which created this wealth. He thus unconsciously calls attention quite correctly to the central idea which to-day governs the popular mind in regard to the just distribution of wealth. A leading speaker of the free-traders, in the Reichstag, said that to-day the naive advocacy of low wages dare no longer venture into the light. To-day we consider conditions economically sound only when they guarantee to each participant in the work a just participation in the earnings. And he adds: "The economic ideal is reached when the greatest production and the most uniform distribution among the participants of the profits earned coincide."

Whether a just distribution of goods exists in reality or not, a question which for the present I will leave unanswered, still it is always spoken of, there is a general belief in it; this belief is speculated upon, and it has its practical consequences.

This brings us to the correct formulation of the question with which we must begin. We would not from any principle whatsoever logically deduce a formula whose strict application would at all times produce justice; we would simply and modestly put the question, How does it happen that economic transactions and social phenomena so often

bring forth a favorable or adverse criticism which asserts that this is just, that unjust? When we have a correct answer to this, then it will be easy to draw further conclusions and to decide what force, weight and influence this approving or disapproving judgment will exercise retroactively on the social and economic phenomena.

I.

Even he who reduces all human impulses and actions to the feelings of pleasure and pain must admit that, as far as we know human nature, there are, besides lower impulses, higher intellectual, æsthetic and moral ones. They give to life those ideal aims, from them grow those conceptions which accompany and influence all human life, all actions, all institutions, as ideal visions of what ought to be. Should we call the essence of what ought to be, the abstract Good, the abstract Just would be part of it. Justice is a human virtue. It has been called the virtue of virtues. It is the permanent habit of mankind to adapt its actions to the ideas which we call the abstract Just. The Just *per se*, anything absolutely just, is found in reality as little and as seldom as anything absolutely good. The Just is always an ideal conception, to which reality may approach, but which it will never attain; the ethical judgment that an action or the deeds of a man are just always affirms only that his deeds correspond to an ideal conception, and one single action may perhaps completely do this; but a man's whole life, society as a whole and its actions can only approach it. What kind of an action do we call just? The word is used in different senses. We often use it merely to indicate that the individual is conforming to the laws of the whole, that his actions are in accord with positive law. We use it also in the much broader sense to describe his actions, not so much as corresponding to positive law as to its ideals. We oppose a right that ought to be—as the just—to the positive law, judge the latter

by the former, and call actual law unjust in so far as it does not correspond to this ideal. The conceptions which guide us herein, and from which we derive our idea of the just, are by no means simple; on the one hand the peculiar nature of legal prescriptions, being certain formal rules of social intercourse, and on the other the ideal aims of social life which determine the material contents of law, combine to create this ideal. Conceptions of the perfect commonwealth and of the perfect individual are associated in it. When we speak of what is just in a narrower sense, when we use the word not as it is used in schools, but in the daily usage of common speech, we consider only one of these conceptions, or better, only one of these co-operating spheres of conception. When we speak of a just judge, a just punishment, or just institutions, we usually conceive of a society, a number of people, a comparison of them, and a fair distribution of good and of bad, of that which causes pain and pleasure, measured by uniform objective standards. The specific conception of justice, the one which principally interests us here, is that of justice in distribution; it always presupposes the proportionality of two opposite quantities, one of human beings and one of goods which are to be distributed. We necessarily classify in series, according to objective characteristics, every multiplicity of persons which appears to us in some respect as a unity; and the ideal conception of what ought to be, demands the distribution of goods and evils according to this classification. By this standard our ideal always measures reality. Our moral judgment is always active in estimating the actions of men, their vices as well as their virtues and their achievements—that is in comparing and classifying them. Our social instinct is ever active in fixing the relation of the individual and his doings to the whole of the community, of the State and of humanity, in measuring and locating them accordingly. With relentless necessity the conviction always governs us that this classification must determine the distribution of

honors and political influence, of position, of incomes and punishments. The similar should be treated alike, the dissimilar unlike. It is a reciprocity of human actions which we demand. The maintenance of reciprocity appears just, its disregard unjust. In an unjust proportion one part obtains too much, the other too little. The unjust usurps too much of the good to be distributed, the unjustly suffering receives too little.

We call an election system just which distributes political influence according to individual ability and merit in state and community. We call a penal code just which, in spite of the manifold variety of misdemeanors and crimes, in spite of the seeming incomparability of the different punishments, has found a uniformly weighing system which parallels offences and punishments in accordance with public sentiment. We speak of a just gradation of salaries, of a just promotion of officers in every stock company, in every railroad, as well as in the army, and in the hierarchy of State officials. We speak of a just distribution of taxes, of a just gradation of wages, of just profits, of a just interest on loans. And always there is the same conception in the background: men are grouped and classified according to certain characteristics, qualities, deeds and accomplishments, descent and prosperity. Burdens and advantages should correspond to these classes.

The profit of an undertaking is said to be justly higher than the rate of interest, because a greater risk and an indemnity for labor are therein involved, both of which are foreign to interest. Interest on capital is just because the lender foregoes a possible profit or enjoyment, because the borrower is in a much worse position without this aid, and because for the service of the one a consideration from the other seems just. The high earnings of the well-known physician or lawyer are just, such is Adam Smith's argument, because of the large number who go to great expense in their studies; many have very small incomes; the chosen, able ones are thus in a manner compensated therefor.

Every house-wife, every servant girl, daily and hourly thinks this price and that unjust, and this always on the ground of comparisons, classifications and valuations. Most important, however, is the judgment of the justice or injustice of the condition of social classes in general.

Aristotle calls slavery just when master and slave are by nature as different as soul and body, as governing will and external instrument. Then, he says, it is a natural, intrinsically justified slavery; the external legal relation of society corresponds to human nature.

Exactly the same can be said of all social gradations and classifications. We feel them to be just as far as we find them in accord with our observations of similar or dissimilar qualities of the classes in question. The public mind has never, apart from times of error and excitement, begrimed honor, riches and position to those whose actions, whose abilities correspondingly exceeded. It found fault with the condition of the middle and lower classes whenever it observed that men of the same race, the same creed, the same community, were maltreated by their equals and were held in a subjection not corresponding to their education and merit. All class struggles of the past have arisen from these sentiments. The greatest politicians and popular leaders of all times, as well as the greatest kings and Cæsars, placed themselves at the head of movements which, originating in oppressed, abused and maltreated classes, aspired, successfully or otherwise, to a removal of unjust social conditions. These class-struggles have often been only for political rights, for honors, or for marriage rights. The essential element, however, was always an economic question, the distribution of incomes and wealth or the conditions and avenues to them, the possibilities of acquisition; for in the social struggle for life, economic existence is the most important factor.

And therefore the question always arises here also, whether that which is, is just. Is this restriction of trade,

this or that institution touching the distribution of wealth, is this entire distribution of incomes just?

This question, indeed, is not always equally emphasized; the feelings which spring from the answer do not at all times equally influence the masses and single parties. The judgment, that a certain classification and distribution of incomes is just or unjust, is of course not the only one that is given about the social phenomenon in question. Nor is this judgment, even though thousands are agreed upon it, the only power which rules the distribution of incomes. But this judgment is the only psychological basis from which all demands for the right of equality have arisen. It is the basis of all individualism. From the standpoint of mankind there may be other demands; mankind and its interests demand sacrifices in the upper as well as in the lower ranks. The practical representatives of this standpoint in political life must, therefore, necessarily seek to combat or to weaken the conclusions resulting from this fundamental principle of individualism. And from their standpoint they are justified in so doing. But equally justified on the other hand is the standpoint of individualism; and it is this which demands justice, proportionality of duties and rights; it demands equality for equal, inequality for unequal men. The principle of civil, political and social equality will never have a firm foundation unless one seeks it in this connection. Every limitation of the principle of equality, other than that which is prompted by the qualities and merits of men, is arbitrary. Material justice demands equal rights only in so far as it observes equal qualities, as it presumes the possibility of equal achievement and fulfillment of duties.

II.

Thus the approving or disapproving judgment of the justice of human actions or institutions always rests on the same psychological processes. But the results to which it comes may be very different. How would it otherwise be

possible that the conceptions of justice of barbarians, of heathens, of Christians, of men of modern culture, differ so much that something different is always demanded under the plea of justice? Even within the same nation and the same period the controversy as to what constitutes justice will never cease; but from time to time certain judgments will succeed in placing themselves in the dominating centre of the progressive movement, certain results of former intellectual contests will descend to posterity as a secured inheritance; and as long as the night of barbarism does not break in again they will rule and influence it more and more.

If we now try to explain somewhat more fully the psychological processes in question, the first step always seems to be to group in our conceptions a number of men into bodies of moral community. These bodies are then compared and tested according to their qualities and actions. The equalities are searched for and found by the judgment, the inequalities and their degrees are tried by the estimating and valuing sense. It is in the realm of the feelings in which all the final decisions on this most important point are reached. All feelings finally resolve themselves into an adjudging or disparaging, into an estimation and a sensation of that which furthers and that which impedes us; they are decisions on the worth of men and things. And upon this now follows finally the simple logical conclusion: the persons whom I am to conceive as a moral community must, as far as human intervention reaches, be treated equally in the measure of their equality, unequally in the measure of their inequality.

The groups of persons into which our conceptions necessarily classify mankind are manifold. The members of the family and the tribe, the fellows of a society and a community, the citizens of a State and of a federation, the members of a church and of a race, finally all humanity in a certain sense can be so grouped, but only in so far as they form

a moral community and pursue certain common ends. Who-soever stands without the group is foreign to the comparison, is not comprised in the judgment of what is just. Hence a barbarian does not think it unjust to kill the stranger; only the conception of a moral community between all nations and all men prevents this. Likewise it does not seem to me unjust that an Englishman pays double the taxes paid by a German of equal income. With the variety of different human purposes and communities the same man appears at one time like his fellows, at another unlike. In a club of any kind which claims but a small fraction of our interest, we see no injustice in a per capita assessment which we would consider unbearable in a State or community. It accords with our idea of justice that all young and vigorous men have an equal duty in the defence of our country, whereas for other public and social purposes they show the greatest dissimilarities, and are accordingly treated differently.

The judgment of equality or inequality is, therefore, always a very complicated one. Not only must the human qualities and deeds be considered *per se*, but also in their relations to the aims of human society. In one grouping and classification we have in view only some one certain well-defined quality of mankind; in another we attempt a weighing of all qualities, we seek the average human being. A shipwrecked party, which has saved itself in a boat too small to carry all, will be apt to value all their companions equally in the question of life and death, and cast lots equally for all. But the provisions which have been saved will be distributed according to the various needs, *i. e.*, the seaman at the oar will be given twice as much as the three-year-old child. In a tribe of warlike nomads the bravest fighter, in the jockey club the best rider, is fairly given a preference which would appear unjust in other groups of men. Even in the family and in the State a certain kind only of qualities or actions often forms the basis of judgment. The judge on the bench cares only for certain wrongful acts; the

father who wishes to bequeath the same to each child, because he thinks this just, will not deny their dissimilarity in many respects. The State, however, will distribute honors and dignities in the nearest possible relation to the average of qualities most important to it. Every election, every promotion is governed by an average of composite impressions. The judgment upon a just or unjust distribution of wealth and income will always rest on a similar basis.

Whether it be a single quality or action, or a sum of them, those which are considered are such as relate to the aims and ends of the community. And they may naturally be of the greatest variety, may include, for instance, even physical strength or beauty. In an athletic club it seems just to give a prize to the strongest man, in tableaux vivants to favor a beautiful woman. As a rule, however, in social bodies of a higher order those qualities are to be considered which, like virtue and talent, are of the greatest service to them, which manifest themselves in actions advantageous to the community. Often there are very heterogeneous qualities to be compared, as the aims of the great moral communities, especially of the State, are the most various. The question can arise, is the brave general or the great statesman, the great painter or the great singer, of greater universal value? The decision is given by public sentiment according to that classification of purposes which appears at the moment to be the correct one, and following it we find a verdict of the public which declares the salary of a general, of a secretary of state or of a singer to be just or unjust.

Quite as difficult as the comparison of different qualities or acts is the valuation of the inequalities in the same sphere of human action. That the statesman deserves a higher salary than his secretary, that the head of a great firm earns more than his cashier, and the latter more than the youngest clerk, that the designer in a factory is more important than the porter--in all this, public sentiment and valuation

agree. But when the grades of inequality are to be measured and to be expressed in figures, which is indispensable in all the practical questions, there will be many differences of opinion; and from this point of view indeed the opinion might be upheld that the psychological judgments which form the foundations of the conceptions of the just are always a chaos without unity and clearness. The objection which we so often meet on the field of æsthetic judgment seems obvious, that there is no general judgment, that all is a matter of individual taste, that mere individual processes of feeling are in question, which are immeasurably entangled, and which a fool alone could regard as a basis of public affairs and institutions.

This would in fact be true, if the individual thoughts and sentiments of men were, indeed, only the product of independent and isolated individuals. But every disposition of mind, every word, every idea, every conception, more profoundly examined, is the result not of an individual, but of a social process. The greatest genius even thinks and feels as a member of the community; ninety per cent of what he possesses is a trust conveyed to him by forefathers, teachers, fellow-creatures, to be cherished and bequeathed to posterity. The majority of everyday persons are little more than indifferent vessels into which flow the feelings and thoughts of preceding and contemporary millions. Language is a product of society. By means of the spoken word, Herbart says, thought and feeling pass over into the mind of another. There they originate new feelings and thoughts, which forthwith cross the same bridge, to enrich the ideas of the first. Thus it happens that the smallest part of our thoughts originates in ourselves, and that we draw, as it were, from a public storehouse, and participate in a universal generation of thoughts to which each individual makes only a comparatively scanty contribution.

Supposing for the moment that the feelings on which the estimating judgments of what is just are founded, remain

wholly in the obscure realm of mental temperaments, even in this stage they are not a psychological chaos, but a rhythmic movement of masses. And the more they rise to judgments and standards of valuation, the more the mental temperaments are condensed through the medium of public discussion, to decisions which possess distinct characteristics and criteria, the more we have before us mass-judgments which are not quite uniform, it is true, but still classed according to masses, grouped according to centres and authorities, and which are clear, firm and generally admitted. On account of the same qualities, in regard to the same purposes, they give the same results again and again and become the ruling standards of valuation.

Every period has prevailing conventional standards of valuation for human qualities and deeds, virtues and vices; it conventionally values this kind of action more highly than that, and so demands accordingly in one case greater rewards or greater honors, in another severer punishments or smaller incomes. These conventional standards of valuation are more or less the starting-point of every judgment of justice. A new and changed conception is measured in the first instance by its deviation from the traditions. As every fixation of price in society is not anew the result of demand and supply, but as demand and supply only try to modify traditional values, so it is also with the valuing judgments of justice or injustice. The sum of that which has been handed down as just, invariably forms the real basis of all judgments. A refined intuition of right demands a change here and there; in opposition to the sum total of conceptions of the just, this is only a single, but an important point.

In existing customs and in existing law, these conventional and traditional standards of valuation have their real bulwark; thus they have assumed a form which firmly, rigidly and uniformly governs wide circles of mankind, and in that well-defined form they are handed down from generation to generation. But they also can be found outside of this solid

ground; they originate everywhere from repetitions of similar cases and form the basis of judgments of what is just. These judgments, indeed, arise daily and hourly in the mind of every thoughtful man in regard to all social relations of life; they are not confined to actual law. In family life the sister thinks it unjust that the brother is favored; in every social circle, visits, invitations, even smiles, looks and compliments are resented as unjust preferences. The mental processes are the same whether here or on the ground of actual law. Everywhere it is in the main traditional standards which govern our judgment. These traditional and conventional standards are the historical precipitate of the conception of justice of hundreds of millions of men, on whose shoulders we stand. Through these traditions the seemingly irregular, the casual and individual takes firm body and lasting form in spite of constant transformations and renewals.

From this standpoint we can easily refute the naive objection that there is no way to apply the conception of the just to economic matters, because, it is said, incomparable quantities and qualities are in question, the different kinds of work, the functions of the employer and the day-laborer being immeasurable by any common standard. They forget that the formation of prices in the market equalizes that which is seemingly incomparable, as, for instance, an edition of Goethe and a bottle of champagne; that in every penal code two things which appear to be still more heterogeneous, a fine of so and so much money and a day's imprisonment are in a fixed ratio according to a conventional standard. Everywhere in the questions of prices and of law the traditional and conventional judgment, that this is to be called equal and not that, is fundamental. Only should we have to begin every moment to form our judgments anew would this objection be reasonable. As things are, the fact remains that the average earnings of the employer, compared to the wages of the laborer, can be raised or lowered by a change in demand and supply within such an economic organization

as exists to-day; that independently thereof, in consequence of traditional standards on the one hand and of the modern sentiments and ideals on the other, this change, as soon as it has reached a certain extent, will appear just or unjust.

And whenever these and similar questions are discussed, when opinions differ about them, the controversy is not, as a rule, between those who wish to apply the categories of justice to these phenomena, and those who deny their applicability; but the struggle is between older and traditional standards of judgment and new ones, the ideals of the eighteenth century with those of the nineteenth; the struggle is between a cruder conception of right and a more refined one, between ideals whose realization is to-day impossible and those that are attainable through the customs and the law of our age; finally ideal conceptions of justice which have already been co-ordinated with other not less justified ideals are arrayed against those which have chosen principles of justice exclusively for their battle-cry.

And just because this struggle never ceases there is, as we have seen above, no simple, universally intelligible, familiar and applicable formula of justice. The conceptions in question may all be reduced to this fundamental idea: everyone according to his merit, "*suum cuique*," but the possible application of this rule is always different according to the possibility of innumerable conceptions of value, estimations, groupings and classifications. The abstract pretension, for example, that in labor or even in handiwork rests the unique standard of justice is in equal right with the other pretense that talent, virtue or even the human face must be taken into account. In certain spheres and in respect to certain aims only will one formula or the other gradually prove its justification and thus gain recognition.

But what is it that gives the final decision in this contest of opinions? Is it logical reasoning? Apparently not, or at least not primarily. Much as in the struggle for public and social institutions, all kinds of logical reasons for the

justice of a cause are appealed to, they seldom convince and always seem more or less flat. At least they do not convince the opponent, although they are capable of inciting their followers to enthusiastic and desperate struggles. And this is natural. They are not logical decisions. Whether they be traditional standards of valuation, whose immemorial age or even divine origin impresses our spirits or newer conceptions, which by the power of passion inflame the disciples of a school, a party, the members of a class or a people, the final decision rests with the heart, with the innermost centre of human soul and mind.

This explains the vast possibility of error, of delusion, of vehement passions. Ideals of justice may appear in the most distorted forms, in its name the most insane as well as the highest and holiest things are demanded. Long struggles are often necessary to purify concepts of their errors and to develop the ideal in its purity. But at the same time the inward connection between the conceptions of the "just" and the depth of human emotions explains the magic power of their effect. That which moves the inmost heart dominates the wills, the egoism, inspires deeds of valor, carries away the individual and millions to deeds and sacrifices. Hence the mystery that a political platform, an economic contrivance, only influences where it seems an outcome of justice. Hence the involuntary tendency to appeal to justice in every discussion. Hence also the fact that the same theory which proposes a demand of justice as its consequence often is made by individuals, but repudiated by public opinion; and then suddenly with irresistible elementary force it takes hold of the masses, leads them on new paths, radically influences legislation and puts a changed stamp on whole epochs.

III.

Let us return from discussing the psychological aspect of the question, to the main substance of our discourse, which we have hitherto only grazed, or touched upon by way of

illustrations. We have now to inquire whether the distribution of income and wealth is felt to be just or unjust at all and under what circumstances and conditions.

If we confine ourselves to the strictly philosophical reflections of ancient and modern times, there scarcely seems to be any controversy about the question. From Aristotle's doctrine of justice in distribution to the philosophers of to-day, there is controversy over the practical effect of the judgments in question, but hardly over the judgments themselves. Among more recent thinkers—only to mention a few—Herbart conceives the penal system and the economic conditions of a nation as a united whole; what elsewhere is called justice he denominates as equity. On equity his so-called system of wages, which comprises the economic conditions and the penal law of a nation, is built up; the judgment requires recompense for benefits and retribution for misdeeds. The conceptions of the wage system must, according to Hartenstein, be applied equally to benefits and misdeeds. "The general idea must be maintained, that the social institutions and actions should be capable and fitted to require equally merit and offence." And Trendelenburg, in a similar fashion, affirms that the moral estimation of political and economic affairs is, at bottom, derived from the same standpoint. "Indeed," he says, "in the structure of the State the constant proportion between duties and rights is the fundamental idea of justice, and the same proportion between labor and earnings should be aimed at in private intercourse, but the market price makes the exponent so variable, that it causes a constant inequality." The execution thus seems dim to him; but it appears to him the ideal condition, that labor and earnings should accord, as duty does with right.

There is no doubt that this conception is confronted by another which results from the investigation of details, which is not the outgrowth of popular instincts and sentiment, and is even often involuntarily denied by its very representatives, but through the authority of certain doctrines has become

nevertheless of great importance for practical life. I mean the conception which sees in the difference between rich and poor only an occurrence of nature. In the investigation of the immediate causes of the distribution of wealth, this conception is not able to discover the remoter causes. It sees only demand and supply, proportions, natural phenomena, climatic influences, the accidents of life and death; all these are unquestionably mechanical causes which influence this or that distribution of incomes. The earnings of the individual, it is said, are determined by the "strength and the luck of the individual." Free intercourse appears as the analogy of the Darwinian struggle for existence. Might makes right; purposes and moral judgments are not here in consideration, or only to a limited extent. So far as mankind demands a just distribution of incomes, their ideas are in the main foolish; justice may at the most be demanded of the State when it intervenes directly; opposed as it is to free intercourse and the legitimate influence of fortune, this striving is wrong. "Shall we," we hear from this quarter, "censure our God, that He so frequently interferes unjustly? Shall we prescribe to Him where His lightnings shall strike and where He shall permit the bullets to hit? Shall we quarrel with nature because she grants the delicious fruits of the south and an olympic existence to one race, while she banishes another to the reeking hovels of the arctic?"

We will not dismiss this conception of things by the accusation of materialism, for, though materialistic, it nevertheless has the merit of being realistic and of having further detailed investigation in certain directions. But whatever its merits in this direction, our question is not really touched at all by these arguments. The individual scholar who, in his researches, considers only forces, proportions, demand and supply, and endeavors to grasp them, may ignore the question whether the result be just, but the popular mind will always repeat the question as long as it sees before it human actions.

But only to this extent and always to this extent; and furthermore the uncertain results of fortune and the course of natural processes also will appear just or unjust to him who believes that they are governed by a just Providence ruling analogously to human actions; may the compensation only occur in another world, it is expected and demanded by the soul.

When on the other hand the intellect sees but blind forces, it consoles itself with the argument that it is not the task of humanity to master them; then he will no longer demand justice from the flashing lightning, from the hostile bullet, from the demon of cholera and the sunny zephyrs, but always from all conscious actions of human beings.

The distinction is therefore not, as has been claimed, between State and chance, State and free intercourse, governmental distribution and distribution by demand and supply, but the antithesis is this: As far as human action governs and influences the distribution of incomes, so far this action will create the psychological processes whose final result is the judgment which finds the distribution just or unjust; so far as blind extra-human causes interfere, reasonable reflection will demand that men should submit to them with resignation.

If it is objected that demand and supply distribute incomes, we reply in the first instance: Are demand and supply blind powers independent of human influence? This year's crops depend on rain and sunshine, but the average results of our crops are a product of our cultivation. Demand and supply are summary terms for the magnitudes of opposing groups of human wills. The causes and conditions of these magnitudes are partly natural, mostly, however, human relations and powers, human deliberations and actions.

If it is objected that nature conditions the wealth of a nation, we answer: She certainly does in part, and as far as she does, no one thinks it unjust that one nation is rich

and the other poor. But when one nation enslaves, plunders and keeps in subjection another, we immediately find the wealth of the former and the poverty of the latter unjust.

If it is objected that the one man is wealthier than the other because he was not compelled to divide his inheritance with brother and sister, that the one has the good fortune to possess a healthy wife, the other not, we answer: No normal feeling of right wishes to do away with such chance of fortune. But the question is, if such effects of nature, not subject to our influence, which we call fortune or chance, are indeed the essential causes of the distribution of incomes and wealth. In such a case there could be no science of political economy or social policy, for the irregular game of chance cannot be brought under general points of view.

If it is objected that labor and not the State distributes incomes, we answer that this is a surprising objection in the mouth of one who declares strength and fortune both at the same time to be the causes of distribution. For the objection has meaning only when it signifies that different labor and different accomplishments produce correspondingly different compensation. In our eyes, labor produces goods, builds houses, bakes bread, but it does not directly distribute incomes. The different kinds of labor will affect distribution only by their different valuations in society. The demand for this or that labor will influence its market price, but the moral valuation of this or that labor will influence the judgment whether this price is just. Thus labor influences, indirectly it is true, the distribution of incomes; but in such a case, and so far as it does so, it excludes the notion of luck or chance.

Both assertions, however, confine themselves too closely to the individual distribution of incomes, whereas for the economist the essential point is the distribution among the classes of society. For every more general scientific or practical inquiry it is not the important point whether Tom,

the day laborer, has more than Dick or Harry, whether the grocer, Jones, earns more than Brown, whether the banker, Bleichröder, has better luck in his speculations than the banker, Hanseman; about this general judgments will only occasionally be formed. The average wages of the day laborer, the average condition of domestic workers, the average profits of the class of promoters, the average profits of grocers, of landed proprietors, of farmers on the other hand are considered by public opinion and judged to be justified or not. And these earnings are surely not dependent on fortune or chance; they are the result of the average qualities of the respective classes in connection with their relations to the other classes of society; they are in the main the result of human institutions.

The prevailing rights of property, inheritance and contract form the centre of the institutions which govern the distribution of incomes. Their forms for the time being determine a democratic or aristocratic distribution of wealth. Who, for instance, has made the division of landed property, which generally determines the distribution of both wealth and income? Is it nature, luck or chance, or demand and supply? No, in the first place the social and agrarian institutions of the past and present. Wherever small peasant proprietorship prevails to-day, it is derived from the mediæval village community system and the law of peasant succession. Wherever we meet with a system of large estates we see a result of the baronial and feudal system, of the later manorial regime and of the system of estates; at present the institutions of mortgages and leases play a part; the legislation touching the commutation of tenures and system of cultivation were of the same importance to Germany as the colonial system of other governments to their colonies. In the distribution of personal property individual qualities are more prevalent than in that of real estate. But nevertheless the institutions of ancient and modern times seem to us the most important. The forms of undertakings and the

legal status of the laboring classes are the essential points; wherever slavery prevailed it governed at all times the whole economic life, the whole social classification and the distribution of incomes; guilds were, at the time of their consistent maintenance, as much an institution of distribution of incomes as an organization of labor; and the same is true of the domestic system of industry of the seventeenth and eighteenth century with its governmental regulation; the ruling considerations were the needs of commerce and technical practice on the one hand, the situation of the laborers in a domestic system of industries on the other. And are not to-day the institutions of unrestricted trade and interest on loans, of the exchanges and the system of public debts, the forms of undertakings, the system of joint stock companies, of co-operative associations, the unions and corporations of employers and laborers, all labor law, the institutions of friendly and similar societies the material foundation and cause of our present distribution of incomes? The individual causes and the chance of luck effect within the bounds of these institutions the little aberrations of personal destiny; the position of social classes in general is determined by the institutions.

What are economic institutions but a product of human feelings and thought, of human actions, human customs and human laws? And just this causes us to apply the standard of justice to their results, just this makes us inquire whether they and their effects are just or unjust. We do not require the distribution of incomes or wealth to be just absolutely; we do not require it of technical economic acts which do not concern others; but we do require the numerous economic acts which on the basis of barter and division of labor concern others and entire communities to be just.

Where such acts come into consideration our observations discern moral communities, their common aims and the human qualities, which are connected with these aims.

The most primitive barter is impossible, unless, between the parties practising it regularly, a certain moral understanding

exists. There must have been an express or silent mutual agreement to preserve peace. The barterers must have common conceptions of value, must recognize a common law. Every seller forms with the purchaser, who stands before him at the moment of the transaction, a moral union of confidence.

In epochs of primitive culture, in the social communities of families, of kinship, of tribes, of leagues, there exists an uncommonly strong feeling of solidarity which therefore leads to very far-reaching demands of justice within these circles, as well as to a complete obtuseness of the same feeling beyond them. With a higher degree of culture these small communities lose, the individual and the greater communities gain in importance. Now the individual and now the community appears more in the foreground, and accordingly the consciousness of the community of interests will change in intensity. In the periods in which the individual's or the family's technical economic life still forms, without more extensive intercourse, without more elaborate division of labor, the centre of gravity in economics, the feeling of community in economic matters will recede. The further the division of labor progresses, the more inextricably will the threads of intercourse involve the individual in an insoluble social community, the more the whole production will assume the character of a general, not an individual concern. Then the common functions of the local and the national community will thrive, individuals will be more and more dislodged by social leaders. Every larger undertaking, whenever it unites continuously a certain number of men for a common economic purpose, reveals itself as a moral community. It governs the external and internal life of all participants, determines their residence, school, division of time, family life, to a certain degree their mental horizon, education and pleasure. The relations of those concerned necessarily exchange a merely economic for a generally moral character. And therefrom the conception arises; here a

common production exists, hence a moral community. And that leads to the question: Is the relation between the participants, is the division of the products a just one? And similar considerations follow for whole industries, for whole social classes, and this all the more, the more frequently the employers and the laborers are organized into associations and societies. They also result for whole States and unions of States.

The moral communities, which play a part in economics, follow sometimes purely economic purposes, sometimes other purposes, as above all do local communities and the State. The narrower their circle, the simpler and clearer their purpose, the more evident become the qualities, according to which moral judgment compares and classifies men. The more comprehensive they are, the more manifold their purposes, the more complicated becomes the question which qualities are concerned, the more fluctuating becomes the judgment of what is just, the more indispensable for customs and laws become conventional presumptions and standards in order to attain something definite at all.

In times of primitive culture, in the small circles of economic and moral communities all men, or at least all men able to bear arms, may readily appear equal, and so it there appears just to give each the same allotment of land, the same share of booty. The guild sought to secure to each member as nearly as possible an equal share of profit. With higher culture begins the necessary discrimination. Formerly the greater allotments were often given to the bravest soldier and to the noble families, distinctions now become more general. All inherited preference is considered just, in the measure in which public sentiment values not the qualities of the single individual, but of families as a whole, a conception which decreases more and more with higher culture. Inherited wealth, as long as it appears necessarily and obviously coupled with its possessor, is under some conditions regarded as a just standard of the distribution of goods. So

the distribution of public lands according to the possessions in cattle and real estate appeared quite just to many a day laborer and "kossaeth" in the eastern provinces of Prussia, while to one who knew the public land systems in France or southern Germany it seemed an outrageous injustice.

For all community of production, labor is the most obvious standard; hence perhaps it is the most usual, most generally comprehensible. As soon as it becomes necessary to compare many different kinds of labor, only an abstraction totally foreign to public sentiment will conceive the idea of reducing all this labor to mere quantities of handiwork; natural public sentiment will simply value more highly the labor which requires more education or talent.

Those qualities will always be most highly considered which serve the common objects; those which only relate to the individual and his selfish aims are less esteemed. Only a complete misconception therefore could establish individual needs as a standard of distributing justice. Older socialism wisely held aloof at all times from this aberration. Even the first really social-democratic platform in Germany, that of Eisenach of 1869, did not yet venture to commit such a folly. The progressive victory of vulgarity and rudeness first demanded in the Gotha platform of 1875 the division of the aggregate labor products among individuals according to their "reasonable needs." The proviso of reasonableness was intended to prevent excesses; it does not remove the low conception. With his needs a man serves himself only; with his labor, his virtue, his accomplishments, he serves mankind, and these determine the judgment which esteems them as just.

When the great social communities which follow the most various interests and what is just in them are concerned, the attempt will always be made, more or less, to weigh the different qualities and accomplishments of men in their result and in their connection with the objects of the community.

Talents and knowledge, virtues and accomplishments, merit in short is considered. Moral qualities are often apparently overlooked, great talents whose achievements and deeds are generally visible are apparently over-estimated. But only because one is more noticed than the other, and the moral judgment which values individuals according to what they are to the whole can naturally only judge by what it sees.

And therein lies the contrast between moral and economic value. In the ordinary economic valuation activities and products have value in the same measure, as individuals covet them for the satisfaction of their personal needs. In the moral valuation, on which the judgment as to justice depends, the activities of individuals receive their value, according as they serve the inherent ends of the whole. True justice, says Ihering, is a balancing between consequences and acts, which is weighed equally to all citizens according to the measure of the value of these acts to society. Both valuations go in life side by side, combating and influencing one another. The one rules the market, the other moral judgments and conceptions. They approach each other as mankind grows more perfect. Through what mechanism the arising conflicts are lessened and mitigated, we still have to discuss.

IV.

If in the economic order we could recognize only the ruling of blind forces, of selfish interests, natural masses and mechanical processes, it would be a constant battle, a chaotic anarchy; it would present the "*bellum omnium contra omnes*." That this is not the case was perceived by those who saw in the exertion of egoism the only motive force of economic life; they helped themselves over the inexplicable conclusion that out of the blind struggle of selfish individuals peaceful society should grow out, with the ideal conception of a pre-established harmony of forces as in the conception of Leibnitz. And yet any impartial glance at life tells us

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that this harmony does not exist, but that it is striven for slowly and gradually.

No, harmony does not exist *per se*; selfish impulses combat each other, natural masses tend to destroy each other, the mechanical action of natural forces interferes relentlessly still to-day; the struggle for existence is to-day still carried on in the struggle of competition; the buoyancy of individual activity has even with the noblest and most distinguished men a flavor of egoism; with the masses it is, inwardly curbed indeed by the moral results of social life, the potent cause of most actions. While struggle and strife never cease they do not preserve the same character throughout the course of history. The struggle which ended in annihilation, in subjugation, turns into a peaceful contest which is decided by an umpire. The forms of dependence grow milder and more human. Class government grows more moderate. Every brutal strength, every undue assertion of superior force is made punishable by law. Demand and supply, as they confront each other in the different systems of custom and law, are quite different in their result. In short all emanations of egoism are moderated, regulated and restrained by the moral cultivation of the labor of many thousand years. That this is so is the simple consequence of those ideal conceptions which originate in social life, form the centre of all religions, all systems of social ethics, all morals and all law. And in the realm of these ideal conceptions the idea of justice, if not the first and only power, is none the less one of the most important. Others of equal might are grouped with it. Aside from the idea of God, of immortality, of perfection and of progress, the idea of justice which gives each one his share, is confronted in the field of social policy by some other ideas. These are in the first place the idea of community, which allots to the whole that which belongs to it, which regards the promotion of the whole more than the rights of the parts; in the second place the idea of benevolence, which in its consciousness of community gives more to the poor

man than he can justly demand; finally, the idea of liberty, which permits each part to act freely, placing numerous limits upon justice and the community. That this results in many restrictions upon the exercise of justice we will here only suggest, not demonstrate. But the fact always remains that the constantly growing and developing conceptions of justice extend their influence daily and hourly into the activity of practical life, that in the form of moral and religious sense of duty, social custom and actual law, they regulate and modify rude forces and selfish impulses. The conflict between interest and moral ideas will of course never cease, but only be moderated. All human life only exists under the presumption of this never ceasing internal combat. There are always claims of economic justice which appear to be only bold ideal dreams; but there are always many which have conquered in life, or at least have obtained for themselves the majorities, the leading powers. And to them the more refined economic culture owes its humane character.

Practically the most important form in which these ideas conquer is that of custom and of law. Without these formal means the conceptions and judgments of justice cannot easily be realized, cannot easily be transmitted from generation to generation. Custom and law lend permanence and stability to ideas of morality, and effect the agreement of men about that which ought to be. From the moral disposition of men arise rules of custom, which as distinct rules of life curb the wild play of passions and impulses. Custom is that which we regularly practice, originating in experience and recollection, in the judicious conception of common purpose and in moral reflection. As crude as custom may originally be, its rule is always an improvement in comparison with the purely natural play of instincts. It appears to the growing generation the appropriate, necessary, just and obvious condition of all intercourse, all division of labor, all social existence. As an independent power it confronts the individuals and their impulses and becomes the

foundation of all morals, all religion, as well as all rights and all institutions.

Originally inflexible and relentless in itself, custom later becomes more variable in individual morality, adapts itself to conditions, though it still exacts the more noble and sublime; in the positive law, which is gradually separated from custom, it becomes a rule, demanding less, but for this "less" a much stricter obedience. Custom in higher stages of culture only prevails through fear of reproach, of contempt, of social ostracism. Formal law only chooses the rules of social life most important for common interest, but enforces their observation, when necessary, through the physical compulsion which the whole can exercise over the individual.

Internally of the same nature as morals and custom, *i. e.*, originating equally in social ideals and primarily in the idea of justice, the law adopts through its external, formal nature the character of something independent, in consequence of which independence the law can only uphold justice within its own range and can only execute it in a certain sense.

To the essence of right and law, as it has been evolved from religion, morals and customs by an experience of many thousand years, belongs above all the uniform and sure execution of the rules which have once been confirmed universally and uniformly. Without uniform application, without a sure administration, law does not remain law. To achieve this is extraordinarily difficult, on account of the manifold complexity of life. The goal we can only reach by limiting ourselves to that which is of the most importance and by long, laborious, logical brain-work, which reduces the rules of law to a few clear and universally intelligible sentences. The exercise of the judicial power is raised by this quality above the level of personal feelings and changing disposition, laws are guided by it to a safe and uniform application. The more severely law interferes, subordinates details, proceeds radically and relentlessly, the more important

this formal criterion grows. The uniform and just application of law becomes so important that the imperfect law whose just application is secured is preferred to the more perfect and materially more just law whose application varies, becomes uncertain and thus unjust everywhere or in the hands of judges and officials of to-day. Nearly all positive law, therefore, and especially written law, which the thinking mind generates by the machinery of legislation, which has not as customary law been derived from use, is inflexible, feeble, confined to outward, clearly visible marks; it cannot regard individualities and their natures, it deals with rough averages. Instead of testing individuals, for example, it divides adults and minors according to a fixed age, approximately correct for the totality, but more or less arbitrary in regard to the individual. It calls all adult men to the polls, not because they are really of equal importance to the commonwealth, but because the application of every more complicated distinction would result practically in greater injustices. Thus law becomes often inequitable and materially unjust, not because formal justice is superior, but because it is more easily attained in the existing stage of civilization. This gives rise to thousands of conflicts between material and formal justice, which are so often decisive for the practical questions of distribution of wealth and incomes.

If there is any demand of justice which it is desired to introduce into our institutions through the channel of ordinary reform by positive law, it is not only necessary that the demand be recognized and desired by the best as right, that it must have become custom in certain places, that it must have overcome the resisting powers of egoism, of listless indolence which clings to tradition, that it should have triumphed over the eventual obstruction of the other ethical ideas, which tending toward other goals, often may be an obstacle, that it should have become a dogma of ruling parties and statesmen. No, it must also have evolved the qualities of a practicable formal law, it must have reached

fixed boundaries, clear characteristics, determined qualities and proportions; it must have traversed the long journey from a conception of right to a clearly defined and limited provision of law, the fundamental judgments of value must be condensed to a fixed conventional scale, which, as a simple expression of complicated and manifold conditions still grasps their average justly. In short the mechanism of positive law limits every execution of material justice. We have our formal right only at the expense of a partial material injustice.

A demand of justice in rewarding great inventors can to-day only become positive law in patent legislation, or in the public arrangement of a system of premiums, in which the method of execution is just as important as the principle. A demand of justice in regard to a progressive income tax can count upon sympathy only when the demand is based on definite figures which correspond to the average feeling of right of to-day. The demand of justice that the employer should provide better for his laborers becomes practicable, when we demand in detail and definitely that the employer carry this or that responsibility for accidents, that he put such and such a contribution into the benefit fund, that he accept the verdict of umpires with regard to wages. That the laborers should share in the profits of the enterprise can be discussed as a legal measure only when definite experience shows the possibility of a just execution. Otherwise such a law, like many other well-meant propositions for the improvement of the condition of the lower classes, would, in consequence of the violation of formal justice, lead to arbitrariness, to favoritism, to the discontent of the classes concerned. This is confirmed by all deeper knowledge of the results of the administration of our poor laws. The poor law is the most important piece of socialism which the German social organization contains. It is a piece of socialism which we could not spare for the time being, because we do not know a better substitute, nor yet how to

meet otherwise by more perfect institutions the inevitable demand of justice, that every fellow-being be protected from starvation. The drawback of this poor law is the absolute impossibility of enforcing it in a formally and materially just way. Arbitrariness, chance, red tape govern it, and therefore the assistance given has in many cases such unfavorable psychological effects, leading to laziness and indifference. As long as the organs of the administration do not reach a far higher perfection, as long as the formal possibilities of execution are not quite different, most socialistic experiments would only extend the consequences of our poor laws to large areas of our social and economic organization.

But we must never forget the distinction between means and ends. The form of the law is the means, justice, however, the end. We may perceive that laws cannot do away with every immorality, cannot effect a strictly just distribution of incomes; that the ingenious tricks of astute and selfish business men flout all decency, and find ways to slip through the meshes of the best laws. But this must not restrain us from working for justice, and from faith in its victory. Although thousands of injustices are bound to occur in our life, our best possession rests on the idea of justice. All social progress depends on further victories of justice. By demanding a just distribution of incomes, socialism has introduced nothing new, but has in contrast to the errors which were created by materialistic epigones in a short period of so-called philosophy of enlightenment, only returned to the great traditions of all idealistic social philosophy. The error of socialism was simply that it overlooked the difference between material and formal justice, as well as the significance of other equally justified social ideal conceptions; that it imagined the individual conceptions of certain idealists of what is just, would suffice to overthrow suddenly and immediately primeval institutions. With its crude excrescences it returned to standards of justice which perhaps correspond to the first stages of civilization, certainly

to rough views, but not to refined conceptions of higher morality.

Socialism can teach us not to demand a false justice; it should never hinder us from fighting for a true justice. History tells us that progress has usually been tedious; it shows us just as much that at length the greatest formal difficulties have been overcome; that especially in the great epochs of faith in ideals which rejuvenate and ennable men, the juster right, the refined morals have triumphed over the powers of egoism, of sluggishness, of stupidity, and now better and juster institutions have grown up. There was a time when the demand for a just system of trade, which is universally conceded to-day, appeared as an ideal far in advance of the times. Robberies, thefts, frauds, brawls in the market-places, extortions of gifts were the older forms of transferring property. Here a thousand years' work in civilization has developed, in connection with the progress of refined conceptions of justice, the institutions of law, which to-day govern and bind all intercourse as a matter of course.

The leading conceptions in this work of civilization in the past and present do naturally not relate to the whole society and all its purposes, nor to all qualities of men. In every ordinary barter two persons, whose other qualities are not concerned in this relation, which is confined to this one barter, meet with the purpose of advancing their mutual interests by the exchange of certain goods. This result is reached if they exchange values essentially equal, if both sides make equal profits. "The giving and the taking," Herbart says, "everywhere presupposes compensation, *i. e.*, equality of the given and the taken." Concerning the standards of equality only, can there be any dissent. The savage sees equality in purely external circumstances, in the fact that the furs just fill the kettle for which he trades them. The civilized man asks for equality of money value, the formalist for the equal absence of fraud, force and error. The principle

however, always remains the same. Equality measured in some way is required. And if the equality of both sides required by the conventional standard exists, justice is secured because the logical judgment and the moral test does not bring the single agreement into relation with the total distribution of incomes, with the total worthiness of the persons. Only a fool could require as a demand of justice, that the grocer grade the price of a pound of coffee according to the wealth of each customer, or that in a publishing contract the publisher should pay to the author of an unsalable scientific book a large sum because it is a work of great labor and skill. The justice of a single bargain is the so-called exchanging justice, as Trendelenburg in his admirable essays on Aristotle has proved to be the real meaning of the great Stagaryte. This exchanging justice is nevertheless not in strict contrast to distributive justice; it is only one of its subdivisions, which concerns not the whole society and all its purposes, but simply a part of them and an especial purpose.

As long as the value of every good thing is a different one for each man, so long a certain inequality of profits will not seem unjust. Only when this equality oversteps certain bounds, when its cause is not the free decision of a free man, does a lively feeling of injustice arise and seek a legal remedy. For thousands of years the selfish impulses of those who in the social struggle of competition are the stronger, have demanded unconditional freedom of contract; and this demand is always opposed by public conscience and the demand of the weaker, which establishes the conception of *justum pretium*, which requires a governmental regulation of prices, statutes on usury, consideration for the "*læsio enormis*," public control of abuses in trade and traffic, a restriction of exploitation. This requirement disappears only when two real equals meet, who as a rule derive equal benefit from their commercial relations.

The older economic school of Adam Smith, as we suggested in our introduction, had found its ideal of justice

exclusively in the freedom of contracts. Presuming that all men are by nature equal, it demanded only freedom for these equal men, in the hope that this would result in agreements about equal values with equal profits for both parties. It knew neither the social classes nor the social institutions in their significance for economic life; for it the social mechanism was composed exclusively of the activity of individuals and their single agreements. And therefore it could not demand any other kind of justice. This was not wrong, but it was only a part of the "just" which it demanded.

We demand to-day above all, besides a just system of barter, just economic institutions, *i. e.*, we demand that the complexes of rules of morals and right which govern groups of men who live and work together should harmonize in their results with those ideal conceptions of justice which on the basis of our moral and religious conceptions are prevalent to-day, or which are gaining recognition. We do not acknowledge any one of these institutions to be above history, as having always existed or as necessarily everlasting. We test the result of every one of them, and ask of each: How did it originate, what conceptions of justice have generated it, what necessity exists for it to-day?

To be sure we also know how to appreciate the value of the institutions transmitted to us, we know that the sacred traditions of the past fill our mind with awe, that even the form of traditional law has a restraining effect on rough characters, that a lasting condition of social peace is based on the greatest possible restriction of formal breach of law. We admit that institutions must never disappear in form and substance, that nations can never create anything wholly new, but must always build on what exists. In this lasting continuity of the whole we have a guarantee that the struggle for that which is good and just will not expire fruitlessly; though this would always happen, if each generation had to begin this struggle anew, and was not furnished with the inheritance of tried wisdom and justice,

contained in traditional institutions. We admit that every momentary condition of peace in society, as it is preserved by an existing law of property, inheritance and some other institutions, is more valuable than a dangerously unsettling war for a juster law of property and inheritance, when the traditional law still corresponds to the equilibrium of the forces existing in society and to the prevalent ideal conceptions. In this case every struggle for more just laws is for the time being hopeless and vain. It can only harm and destroy. Even the most violent revolution can not replace the mental transformation of men which is the precondition of a juster law. The essential point is always that the forces themselves and the conceptions of justice have changed. Then only can a struggle succeed.

Because this will always be, we do not fear, like the alarmists and the pusillanimous of all times, every struggle for juster laws. And on this account we do not see in every manifestation of the self-esteem of the lower classes a simply outrageous revolt against the doctrine of the natural aristocratic organization of society. Much less should we fall into the mistake of all aged reformers who, because they have achieved something, believe that the world's history should close with them and what they have accomplished. We know to-day that history never stands still, that all progress of history is gained only in the struggle of peoples and of social classes, and that they cannot always be as peaceful as in a nursery. And those who are always ready to dream of a jolly war and its favorable moral consequences should not forget that the social struggles within society differ from wars between nations only in degree, not in kind. Social struggles can likewise favorably affect peoples. I only call attention to the struggles between the plebeians and the patricians. There can be no progress in institutions without certain social struggles. All struggles within society are struggles for institutions, and that for the progress of cultivation the individual will grow enthusiastic, will even sacrifice

his life for that for which classes and parties fight, is so inevitable, so salutary that now and then we do not find fault with breaking the formal law in such contests.

There is no worse delusion than that of the older English economists that there are a number of simple and natural legal and economic institutions which have always been as they are and will always remain so; that all progress of civilization and wealth is simply an individual or technical one; that this is simply a question of increased production or consumption which will and can be accomplished on the basis of the same legal institutions. This faith in the stability of economic institutions was the result of the naive overweening confidence of the older economists in the omnipotence of the individual and of the individual life. Socialism then has perhaps over-estimated the significance of social institutions. Historical economics and the modern philosophy of law have given them their due position by showing us that the great epochs of economic progress are primarily connected with the reform of social institutions. The great messages of salvation to humanity were all aimed at the injustice of outworn institutions; by higher justice and better institutions humanity is educated up to higher forms of life.

As little as the social institutions of antiquity have governed modern history, as certainly as slavery and serfdom have vanished, as certainly as all past progress of institutions was connected with apparent success in distributing wealth and incomes in a more just way and in adapting it more and more to personal virtues and accomplishments, as certainly as this increased more and more the activity of all individuals, as certain as all this is it, that the future will also see new improvements in this direction, that the institutions of coming centuries will be more just than those of to-day. The decisive ideal conceptions will be influenced not exclusively but essentially by distributive justice. Institutions which govern whole groups of human beings and

the entire distribution of wealth and incomes necessarily call forth a judgment upon their total effects. Inasmuch, indeed, as single institutions concern only single men and single phases of life, the justice required will only be a partial one. Naturally this is always easy to attain. A just assessment of taxes, a just distribution of the burdens for the improvement of highways, of the duty of military service, a just gradation of wages are much easier to attain than a just distribution of the total incomes and wealth. But an endeavor towards these ends will never cease; all partially just regulations have significance only in a system of the just distribution of the total. And with this we finally come to the question what can be and what should the State do in this matter?

In our view it will obviously not be a body confined to the extension of justice in criminal law, in the jurisdiction upon contracts and further, perhaps, in the assessment of taxes, but ignoring the just distribution of goods. What sense is there in warming up in the legislatures over the hundredth part of a cent, which a quart of beer or a yard of cloth is raised in price for the poor man, when one takes the standpoint on principle, that his wages are to be regarded as something indifferent and remote from all human intervention. Our modern civilized commonwealth indeed cannot remove every injustice, because primarily it operates and has to operate by means of law. But it should not therefore be indifferent to the moral sentiments of men who ask for justice in distributing wealth and incomes for the grand total of human society. The State is the centre and the heart in which all institutions empty and unite. It also has a strong direct influence on the distribution of incomes and wealth as the greatest employer of labor, the greatest property holder, or the administrator of the greatest undertakings. Above all it exercises as legislator and administrator the greatest indirect influence on law and custom, on all social institutions; and this is the decisive point.

The right man in the right place, the great statesman and reformer, the far-seeing party chief and legislator can here accomplish extraordinary things, not directly, not immediately, but through a wise and just transformation of the economic institutions they can greatly influence the administration of incomes and property. Of course, the theory which sees only natural processes in all economic life admits this as little as those who from the standpoint of certain class interests, from conviction of principle, or even from mere shortsightedness constantly recur to the impotency of the State. Statesmen of a lower order also talk with eunuchs' voices of the inability of the State to interfere anywhere; they mistake their own impotency for that of the State. All these adverse opinions forget that the State is and must be the leading intelligence, the responsible centre of public sentiment, the acme of existing moral and intellectual powers, and therefore can attain great results in this direction.

We do not demand that any leading personalities, like a human omnipotence, should control, compare, examine and estimate the qualities and achievements of millions, and accordingly distribute incomes justly. This is a conception of folly which reasonable socialists now abandon. The State can at all times chiefly influence a juster distribution of income by means of improved social institutions. Only in this way is it guaranteed against having its best intentions destroyed by a thousandfold formal injustice. The total of economic institutions will always be more important than the insight and intention of those who for the time being govern in the central administration, be they the greatest of men. Their wisdom and justice can promote and reform the institutions, but cannot take their place. They will prove themselves true benefactors of humanity only by fixing the net result of their labors in lasting institutions, in increasing for posterity the great capital of traditional justice by reforms; and this will secure immortality to their genius and their will.

We are at the end of our inquiry. What is the result? It is the fact that the conception of justice grows out of necessary processes in our soul and necessarily influences economic life. The idea of justice is, like other moral ideas, not imparted to men by some revelation, and just as little is it an arbitrary invention; it is the necessary product of our moral intuition and our logical thinking, and in so far it is an eternal truth, manifesting itself ever new yet ever similar metamorphoses. In many it works only as a vague feeling. In the course of history it develops, for the majority, into clear conceptions, standards and conclusions. According to the laws of his thought man must unify the manifold and then subject it to uniform standards. The supposition of moral communities in society creates the conception of an earthly justice; the supposition of the unity of all things, that of divine justice. It is the same chain of judgments and conclusions which, dissatisfied with the imperfections of earthly things, transfers the last compensation into a higher and better world. The idea of justice is thus connected with the highest and best that we think, imagine and believe.

But as this highest and last never reveals itself to mankind in its full splendor, as we eternally seek it, eternally battle for it, and though ever progressing, never reach it, so the idea of justice has no resting, determined existence on earth. As no penal law, no judge is absolutely just, so no established distribution of property and incomes is altogether just. But every consecutive epoch of mankind has won a higher measure of justice in this field. In custom, law and existing institutions which rule economic life we have the outcome of all the struggles for justice which history has seen for many thousand years.

The value of our own life, of our own time, does not lie so much in what was attained before us, as in the amount of strength and moral energy with which we press forward in the path of progress. Great civilized nations, great epochs and great men are not those who comfortably enjoy their

ancestral inheritances, who eat, drink and increase production, but those who with greater energy than others devote their services to the great moral ideas of humanity; they are those who succeed in propagating moral ideas and in introducing them more deeply than hitherto into the sphere of egoistic struggles for existence; they are those who on the field of economics succeed in securing and carrying through juster institutions.

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[Translated by ERNST L. VON HALLE and CARL L. SCHUTZ.]

CLASSIFICATION OF LAW.*

A generally accepted and convenient classification of law of sufficient scope to serve as the basis for the arrangement of the laws of any nation at any stage of its development, is something the world has not yet known. Such a classification, if we ever have it, will give the bench, the bar, students of history and the people at large, a better comprehension of the subject-matter than they had before. The aid it will supply will be much the same as the aid which meridians of longitude and parallels of latitude supply to the navigator, the traveler, and all who need an extended and accurate view of the earth's surface. The classification contained in this article is, I believe, more convenient than any other yet proposed. That it may be of much use, however, it must be generally accepted.

The term, *municipal law*, or more briefly *law*, as used in this paper, means two things: 1. It means the rules in accordance with which the courts of a State decide cases, that is, the rules of conduct prescribed, directly or indirectly, by the holders of sovereign power in a State to all persons within its territory. 2. It means the structure of the government. (For an elucidation of the phrase, "the structure of the government," see the first head of the classification of law given, below). It is almost unnecessary to say that the word, *law*, does not here denote physical laws, the rules in accordance with which matter exists and moves. Neither does it directly denote moral laws, the rules of human conduct which God has prescribed to men. Municipal law should be

* A skeleton of the classification of law stated in this paper was published by me in a letter to *The Green Bag*, for March, 1890. The classification, more or less elaborated, was afterward printed in one or two other legal periodicals and in pamphlet form. The present paper owes its existence to my desire to further explain it, and to bring it to the attention of a class of readers, whom it has not yet reached.

the expression of moral law, and to a great extent always is so, yet, under the most favorable circumstances it is incapable of expressing a large part of moral law and must be therefore permanently narrower in its scope. It does not denote all commands of the sovereign and his agents, or even all their commands in the form of general rules; for example, it does not embrace general orders of an executive officer, such as the secretary of the treasury, to his subordinates. As pointed out by another writer, it does not embrace infantry tactics, although they be established by the State.*

As used in this paper the word, law, does not include specific commands of the sovereign or his agents, whether they be legislative, executive or judicial officers or bodies, nor general orders of executive officers or boards to their subordinates.

The greater part of the law administered by the courts and to be arranged in the following classification, has never in any English speaking country, and probably never in any country, been enacted in the form of a statute. In civilized countries at present, it is so much of the current morality of the nation as the courts believe can be administered by them with advantage to the people, modified by statutes, including in that term written constitutions, treaties and ordinances, and modified by rules established by prior judicial decisions. The order of authority of these sources of law is, (1) statutes; (2) rules based on precedents; (3) current morality. The general order of historical development is the reverse order.

The word, *right*, as used in municipal law and in the classification of law given hereafter, denotes two groups of attributes attached to persons. 1. It usually means a power in one person, called the right-holder, to force another, called the duty-bearer, by aid of the courts of justice to do or to forbear to do some act. For example, A has a legal right against B to enforce through the courts payment of B's promissory note which A holds. Such a right may be called

* Gray, 6 Har. Law. Rev. 21.

a protected right. The class includes a right protected indirectly by the courts, although directly by self-redress. 2. When the word, right, is applied to the rightholder's own acts, it means absence of legal prohibition. For example, a man has a right to practice such forms of religious worship as he chooses, not injurious to the State; he has a right to express his opinions about public affairs and about men in public office. Such a right may be called a permissive right. If the State goes further than abstaining from prohibiting the man's act, and protects him in doing it, against interference by other men, he has a right under the first definition of the term as well as under the second. The word, right, is not here used, as it often is in common speech, as synonymous with justice.

Rights are *primary*, that is, given for their own sake irrespective of any prior breach of law, or *secondary*, given in substitution for a violated primary right, or to enforce a primary right or another secondary right. Thus, B's right as a citizen of a State to vote at elections, under such limitations as the law of the State may prescribe, his right of personal security, that is, his right against persons generally not to have his person touched or interfered with, his right of dominion over the house he owns and occupies, and his right to have C perform his contract to pay a sum of money, are all primary rights. B's rights to remedies for the violation of these primary rights are secondary rights.

In the division of law as given below into nine great groups, under each primary right are included the secondary rights arising from it, whether they are substitutes for a violated primary right, or are rights to remedies, such as an action at law to recover money damages, a suit in equity or a mandamus to enforce the specific performance of a duty, or an injunction to prevent the threatened violation of a right. An exception is made as to so much of the law of remedies as can be stated more conveniently by itself under the seventh head, Procedure. As a duty never exists without a

right-holder to assert it, who is either a private person or the State, it is generally unnecessary to consider duties apart from rights. In the classification, in the absence of special facts, calling for a departure from the general rule duties are placed under their corresponding rights.

The classification of law presented in this paper differs from the usual classification of Roman law, among other things, by grouping under the several primary rights the remedies for their violation and the duties corresponding to such rights.

A legal *power*, as the term is used in this classification of law, is capacity to do an act which persons generally are under a legal duty to recognize as lawful. In many instances a person has legal power to do an act without having a legal right to do it. For example, a judge has legal power to render a wrong decision, but no legal right to do it. A corporation has legal power to do many *ultra vires* acts, but no legal right to do them.

A *right in rem* is a right availing against persons generally, and is a right to forbearances. The duty-bearers are indeterminate. Only a few of them can ever be specifically known. Any one in the State may become a duty-bearer. For example, a man's right to personal security, his right of dominion over land and cattle owned by him, his right to a patent for an invention granted him by the government, are rights *in rem*. A man's right of ownership over a tract of land or a movable is a typical right *in rem*. He has a right of dominion over specific matter and a right against men generally that they forbear to interfere with it. From this typical example the class, rights *in rem*, extends to other rights more or less similar. In this classification of law a right *in rem* denotes not only full ownership, but lesser rights into which the full right may be split, *e. g.*, it includes an easement, a leasehold, a reversion, a lien. It includes a man's rights of dominion over himself and over other men. It includes also a patent for an invention, a copyright, a right

to a trade-mark. In these cases there is no specific matter, inanimate or living, over which dominion is exercised, but there is a right against men generally that they forbear to interfere with a certain class of acts by the right-holder, similar to those he would exercise over specific matter.

A *right in personam* is a right availing against a specified individual or individuals, and is a right either to acts or to forbearances. For example, a promisee's right against a promisor to have the latter perform his contract is a primary right *in personam*. All rights to remedies for violated rights *in rem* are rights *in personam*.

Further explanation and definition of terms will be given in the course of the statement of the proposed classification of law and at its close.

A nation's law, as it exists at any date in the nation's history, whether expressed by a written constitution, by statutes, by case law, by customs, or, as is now usually the case in civilized countries, by all of these in combination, may be conveniently grouped under nine great heads, as follows:

1. **Structural Law**, which relates to the organization or structure of the government; which fixes the number and names of legislative, executive and judicial offices and boards, and of territorial and other public corporations; which prescribes how such offices, boards and corporations shall be created and destroyed, filled and vacated; and which prescribes the powers, rights and duties attached to such offices, boards and corporations, the remedies to enforce such powers and rights, and the penalties by which the performance of such duties is coerced. This head includes the jurisdiction and rights of courts, and the powers and rights of judges and juries as public officers and constituent parts of courts. This head and the next may be conveniently denominated, **Public Law**.

The term, constitutional law, has been avoided as the name of this head because it denotes much extrinsic matter, and does not include the whole of the subject. As commonly

used it embraces all matter contained in a written constitution, although such matter does not relate to the structure of government. For example, a provision that railway corporations shall not consolidate is part of the sixth head of the classification, Status, not of structural law, but such provision is constitutional law in the State of Illinois because embodied in the constitution of that State. On the other hand, the phrase, constitutional law, is too narrow. The greater part of the law governing both major and minor public agents is contained in statutes, and hence is not denoted by the phrase. The expression, organic law, has been avoided as the name of this head, because it does not suggest the law governing minor government agents as well as the law governing the legislature and the principal judicial and executive officers of a State.

2. **Public Law, Part Two,** which relates to the rights of a State against persons, and the rights of persons against the State and Public officers as such. Under its first branch it includes, (1) criminal law, which defines crimes and their punishment; (2) criminal procedure; (3) many rights to the performance of active duties by subjects, such as the payment of taxes, and the performance of military and jury duty; (4) the rights of the States as an owner of property, and as a contractor; (5) civil suits by the State. It includes also, much of so-called administrative law, *e. g.*, much of the law governing the currency and weights and measures. Under its second branch it includes (1) the primary rights of individuals against the State, such as the right of an elector of a republic to participate in the government of his country by voting; and (2) the enforcement of such rights against the State, *e. g.*, by suits against it, brought with its consent.

To speak of the rights of a person against the State may seem at first blush inaccurate to those who hold with Austin that the sovereign cannot be a duty-bearer. It does not seem to violate any legal conception, however, to regard the

sovereign as a duty-bearer, when he voluntarily submits to be sued in his own courts either by name or by suits brought nominally against his officers.

3. **Law of Persons**, which relates to a person's rights of dominion over his own body, life and reputation and over the body, life and reputation of other persons. Examples of rights of the first group are, the right of bodily security; the right of occupation, *e. g.*, a person's right to do whatever he likes wherever he is; the right of residence; the right of locomotion; the right of free speech; the right of reputation, protected by the actions of slander and libel; the right to worship freely; and the right to assemble. Since the abolition of slavery, in this country, rights over others are here of small importance, and are confined chiefly to the family relations. This head includes, in addition to rights *in rem* as to one's self and over others, (1) non-contractual rights *in personam*, closely related to such rights *in rem*; (2) contractual rights, which are closely related to such rights *in rem*, and which are subtracted from the head, Contracts, as given below; (3) torts, *i. e.*, injuries, which violate the primary rights involved, as for example, an assault violating a person's primary right of personal security, and (4) the right-holder's remedies therefore, *e. g.*, a *habeas corpus* suit as a remedy for false imprisonment.

The name, Law of Persons, given to this head of the classification of law, is used in deference to established usage and because we have no better one. It is to be remembered, however, that the group of rights comprising this head is no more closely connected with persons than are the other branches of the law.

The head, Law of Persons, and the next three may be conveniently grouped together under the term, Private Law, which primarily signifies the rights of one private person against another including the rights of a private person against a public officer, except so far as the latter is exempt from personal liability as an agent of the State.

4. **Property**, which relates (1) to a person's rights of dominion over land, including water; (2) to a person's rights of dominion over inanimate movables, including fixtures, and over animals; and (3) to patent rights, copyrights, trade-marks and their like, and special privileges (*i. e.*, franchises), all of which may be described as rights of dominion over indeterminate tangible matter. A right of dominion is a right to use and convey the thing owned and to exclude others from using and conveying it. This head includes, in addition to rights *in rem* (1) non-contractual primary rights *in personam*, closely related to such rights *in rem*, *e. g.*, a landlord's right to demand rent from his tenant; (2) contractual rights which are closely related to such rights *in rem*, and which are subtracted from the head, Contracts, as stated below; (3) torts, violating proprietary rights; and (4) the remedies therefor, *e. g.*, an action at law to recover pecuniary damages for waste, an injunction in equity to restrain waste. It includes the creation, transfer and destruction of rights of ownership, *e. g.*, by deed, by will, by descent, by long possession, by estoppel. The law relating to each estate in land can be conveniently grouped as follows: (1) name, definition and divisions; (2) how created, transferred and destroyed (investitive, transvestitive and divertitive facts); (3) powers, rights and remedies of the owner; (4) duties and liabilities of the owner.

5. **Contracts**, which head relates, for the most part, to the rights of one person against another, arising from agreement. A contract is an agreement to which the law annexes a duty.* This head includes the violation of contracts and the remedies therefor. Contracts, considered as investitive, transvestitive or divertitive facts, *i. e.*, creating, transferring or destroying rights *in rem*, *e. g.*, title to land, a patent for an invention, or entering into the creation or destruction of a status, *e. g.*, in cases of marriage, in the formation and dissolution of private corporations—are treated under the

* Langdell, 1 Har. Law Rev. 56, n. 1.

primary rights to which they relate. The word *status*, as used in the last sentence, means membership in a legal class of persons; it does not there mean, as in the next great head of law, classes of persons.

This head includes non-contractual primary rights *in personam*, not included under the heads, Law of Persons, and Property, such as, the right to have a surgeon practice his art on the right-holder with skill.

6. **Status**, the law governing exceptional classes of persons, such as minors and lunatics. This head is formed by subtraction from the four preceding heads. It includes the law of private corporations, of partnerships, the law of principal and agent, master and servant, guardian and ward, and a part of the law of family relations. It includes (1) the name and definition of each class and the division of it into sub-classes; (2) the means by which members of each class are created and destroyed; (3) the powers, rights, and remedies of members of each class; and (4) their duties and liabilities.

7. **Procedure**, which comprises such matters relating to the enforcement of primary rights as cannot, on account of their generality, be conveniently treated under the preceding heads. It includes the heads, Pleading, Practice, Evidence, and Measure of Damages and part of the law of Judgments.

The jurisdiction and rights of courts, and the powers and rights of judges and juries as constituent parts of courts, fall logically under the first head of this classification, Structural Law.

8. **General Principles, Rules of Construction and Definitions.**—This head includes the general rules relating to estoppel and negligence. It is convenient to group general principles by themselves, because they are applied under all of the preceding great heads of law, and therefore could be treated under any one of such heads only in an incomplete manner. The principles collected here are secondary principles, which express applications of the two primary prin-

ples, justice and utility, on which all statute and case law as well as morality are founded. These secondary principles have been formulated for the most part in the inquiry into the ethical grounds on which law should be framed, not by an analysis and classification of established legal rights.

9. **The Law of Nations**, the quasi law governing the intercourse of the nation whose law is to be classified with other nations. The variations of law, which are caused by the absence of persons or things from the national territory, or by the occurrence of some transaction abroad, that is, the subject, sometimes denominated, Private International Law, is broken into parts and is distributed to all the great heads of the foregoing classification. Admiralty law, the law of the sea, falls logically under all the nine great heads of law; but for convenience of reference the greater part of it may be collected under the present head.

The foregoing classification admits of considerable latitude in the distribution of the law. For example, the greater part of the law of family relations may be collected either under the head, Law of Persons, or under the head, Status; much of the law relating to remedies may be collected either under the several primary rights to which such remedies relate, or under the head, Procedure. Convenience must decide what shall be done in dealing with the law of a particular country at a given time, keeping in view ease of reference, historical development and scientific arrangement. The classification here given is applicable to past systems of law, which recognize proprietary rights in men, that is, slavery, and proprietary rights in public offices.

The importance of ease of reference in any arrangement of the law for every day use by the bench and bar may make it advisable to arrange the topics comprising the nine great heads of law under each of those heads alphabetically.

The division of rights into legal and equitable, known to American and English law, and similar divisions in the law

of other nations—for example, the division of Roman law into the old Roman law, and the law built up by successive pretorian edicts—have come about by historical development; they have not been formed by a logical analysis of the matter classified. The division of the whole field of law into legal law and equitable law, is a division which crosses the classification set forth in this paper. Under this classification, however, the distinction between law and equity may be preserved. It is always possible, in describing a right, to state that it is recognized and enforced by courts of law or by courts of equity, or by both, and such a statement is sufficient to preserve this distinction. Equity law, as it exists in this country to-day, is not only a system of remedies to enforce primary rights, recognized by courts of law, but it also comprises equitable primary rights, enforced by courts of equity and not recognized by courts of common law; for example, the rights of a beneficiary of a trust, technically called a *cestui que* trust, against his trustee. By far the greater part of equitable primary rights fall under the heads, Property and Contracts. Very few equitable primary rights are found under either head of Public Law or under the head, Law of Persons, or, except as they are property or contract rights, under the head, Status. The application of equitable remedies is also confined, for the most part, to the heads, Property and Contracts. In criminal law there are no equitable primary rights nor equitable remedies.

The distinction between law and equity is by no means the only historical line of distinction to be encountered in a classification of our own law. During the period of the English colonization of America, and at the time of the adoption of the United States Constitution, there were, in England, five systems of courts which administered, not only different remedies to redress violated primary rights, but differed in their recognition of primary rights, *i. e.*, administered somewhat different systems of substantive law. These courts were the common law courts—the ecclesiastical

courts, exercising as part of their jurisdiction probate jurisdiction over personal property, and having exclusive jurisdiction to appoint administrators and to grant a divorce from bed and board—admiralty courts—courts-martial, military and naval—and chancery courts, exercising a general chancery jurisdiction, supplementing and controlling the other courts. Laying out of view courts-martial, the systems of jurisdiction and substantive law, which were administered by these courts, survive in our own law, although the different systems of substantive law are now nearly fused and the jurisdiction of the courts re-distributed.

It will be instructive to compare the arrangement of the matter in several of our more celebrated treatises and compilations, dealing with the general law of some nation, with the classification of law stated in this article, I have selected for the comparison, "Kent's Commentaries," the "Code Napoléon," "Blackstone's Commentaries" and the "Institutes of Justinian."

Chancellor Kent divides his Commentaries on American Law into six parts. Part 1, he devotes to the law of nations; part 2, he devotes to the structural law relating to our national government in its three departments, legislative, judicial and executive; part 3, he devotes to the sources of American law and, under that head, he treats of matters falling, for the most part, under head 8 of the classification in the text, which relates to general principles, rules of construction and definitions; part 4, he devotes to the law of persons and status; part 5, he devotes to personal property, including contracts; and part 6, he devotes to real property. It thus appears that his treatment of structural law is confined to that part of it relating to the national government. As to the structural law of the States of the Union he is silent. Of Public Law, Part 2, as that term is used in the classification given in the text, *i. e.*, the rights of the State (represented in this country by the national government and the governments of the several States of the

Union) against individuals and the rights of individuals against the State, he has almost nothing to say. He does not treat of criminal law and criminal procedure. He treats only incidentally of civil procedure.

The Code Napoléon, treating of French law, is divided into three books. The first book, entitled "Of Persons," is devoted to the topic, citizenship, falling under the head, Public Law, Part 2, and to various topics, such as marriage, divorce and guardianship, falling under the heads, Law of Persons and Status, as those terms are used in the classification of law given in this paper. The second book, entitled "Of Property and the Different Modifications of Property," is devoted to a part of the law of property. It enumerates various kinds of ownership and some of the incidents attached to each kind. The third book, entitled "Of the Different Modes of Acquiring Property," is devoted to the topics, (1) succession, *i. e.*, the transmission of property by descent and by will; (2) contracts; and (3) some matters of procedure, such as the arrest of the defendant in a civil suit. The great heads, Structural Law, and Public Law, Part 2, the rights of the State against private persons, including criminal law and criminal procedure, and the rights of private persons against the State, are not treated, with the exception of the single topic, citizenship. The head, Law of Nations, is not treated at all, and the other great heads, Law of Persons, Contracts, Status, Procedure, are treated only in a very fragmentary manner.*

Blackstone treating of English law divides his Commentaries into four books, preceded by an introduction. The latter he devotes to general topics, most of which fall under head 8 of the classification of law in the text. The first book, entitled "The Rights of Persons," he devotes to the

* It is proper to state that four other codes were promulgated by France between 1804 and 1810 namely (1) the code of commerce; (2) the code of civil procedure; (3) the code of criminal procedure; and (4) the criminal code; these supplement to a considerable extent the deficiencies of the first code.

structural law of the legislative and executive branches of the English government and to the subjects indicated by the title of the book, *i. e.*, the Law of Persons and Status, using these terms as they are used in the foregoing classification of law. The second book he devotes to primary property rights, including some matter on contracts. The third book he devotes (1) to the structural law relating to courts of justice; (2) to torts, *i. e.*, to violations of the law of persons, of property and of status; and (3) to civil procedure, *i. e.*, remedies to redress and prevent torts and violations of contracts. The fourth book he devotes to criminal law and criminal procedure. He devotes no separate space to the second branch of Public Law, Part 2, the rights of persons against the State, nor to the Law of Nations, but touches upon these subjects under other heads. He omits no extensive topics as do Kent and the authors of the Code Napoléon, but his arrangement of matter is not well adapted to show the true relations of its different parts.

At the time the great body of Roman law was digested and codified under the orders of Justinian, an elementary textbook of the Roman law was prepared by his direction, called, the "Institutes."* It is divided into four books. The first book is devoted, (1) to general topics, which, according to the classification of law in the text, would be grouped under head 8 thereof, relating to general principles, definitions and rules of construction, and (2) to the law of persons and status. The second book and a part of the third are devoted to property, including inheritance. The remainder of the third book and part of the fourth are devoted to obligations, *i. e.*, contracts and *quasi* contracts. The remainder of the fourth book is devoted, in great part, to civil procedure, and a few paragraphs at the end are devoted to criminal law and criminal procedure. The three great heads, Structural Law, relating to the organization of

* See a tabular arrangement of Justinian's "Institutes." Hunter, "Roman Law," p. xxvi; Moyle, "Imperatoris Justiniana Institutionum," vol. 2, p. vii.

the government, Public Law, Part 2, relating to the rights of the State against individuals and to the rights of individuals against the State, and the Law of Nations, receive only slight and incidental treatment. It is to be remarked, the phrase, *jus gentium*, in the Roman law, does not mean the law of nations, as that phrase is used in the foregoing classification of law. The Roman phrase signifies such municipal law as is common to nations generally.*

The classification of law stated in this paper does not include the whole science of law. That embraces: 1. The present law in force in different countries. 2. The descriptive history of law, consisting of a statement of the law in force in different countries at successive dates. 3. The principles of the evolution of law and comparative law. 4. The art of legislation, embracing the application of the knowledge of the evolution and history of law to the moulding of future law by legislatures and courts, and specific measures of law reform.

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* "Kent's Commentaries," 12 ed. vol. I, p. 1, n. 1.

AMERICAN LIFE INSURANCE METHODS.

Life insurance is in all cases essentially a simple operation, embracing at most four or five easily comprehended elements. The moneys paid in by the insured form a fund which may or may not be improved by interest; from this accumulation from time to time are deducted the death-losses and other maturities paid and the expenses of the company. The remainder, if any, is either carried forward, sometimes as policy-credits, sometimes as a general fund, or else is divided among the insured. It will be observed that in any case the operation is radically mutual, the same persons being in effect if not in name both insurers and insured.

Of course, these four simple elements—to which might be added a fifth, namely; the increase of individual shares in the fund by the diminution of the number interested—admit of a variety of permutations and modifications. The diversities created by modes of treating these elements have led many men to think that life insurance is complex and indeed undecipherable to any but the most expert. This idea has been fostered by persons interested in preventing too clear an understanding of life insurance becoming common. On the one side it has suited many to get a reputation for learning by looking wise and talking in cabalistic language. On the other side it has subserved the selfish interests of many others to cause the people to think that this mystery is for no purpose but to conceal fraud. Both sides are equally disposed to avoid the light which might interfere with their personal ends.

To begin at the beginning, there are several ways of collecting the premiums, falling naturally into two groups, namely; payment in advance or payment upon call after the death for which indemnity is demanded. The latter was

properly called the assessment plan, not because other plans do not also assess the losses, but because this plan brought that fact home to all concerned by assessing against money in the members' pockets instead of against funds already paid in by the members. Few of the so-called assessment companies now-a-days make use of this plan, they are no longer really assessment companies.

Whether premiums are collected before or after the losses occur, naturally has a bearing on the interest question. If no funds are carried in hand, the interest factor is perfectly eliminated from the problem. In many cases, where funds are collected in advance, they are not materially in excess of current demands and no interest is earned. ~~Even when the funds in hand are not inconsiderable, interest plays no part in the transaction, being no part of the scheme of the society.~~ Companies which use interest as a factor in their computations variously credit it, some credit ~~entire~~ policy with the average interest actually earned upon the entire share of the assets, others deduct something for the expense of management, and yet others credit only an arbitrarily fixed rate.

In this connection it is proper to remark that claims put forward by insurance companies to opportunities for investment superior to those of private persons may be dismissed as nonsense. The rate of interest earned may differ and indeed does differ in the various companies owing to the accident of location or to the policies of the management, but a life insurance company has no better opportunities for investment than any other person or corporation in the same locality. Some companies for inscrutable reasons choose to invest their assets principally in convertible securities, receiving a smaller revenue on that account. No such interest can be expected on deposits subject to check as on time deposits and the same law obtains in the security market. As there is practically no danger of a sudden and forced liquidation of insurance companies whose liabilities

mature gradually, and as there are wide fluctuations in the current prices of listed, negotiable securities which have many times caused the ruin of companies otherwise solvent, there would seem to be no good reason why the insured should forego any profit upon their invested funds in order to secure the doubtful advantage of ready convertibility. The members desire absolute security on the part of insurance investments and expect as large returns as can be had without endangering that safety. They willingly surrender all chance of speculative enhancement of values when they invest in the life insurance companies, they do not wish to run the risk of speculative decline.

About no factor in life insurance is there so wide a disagreement as about the proper apportionment of death-losses. The methods in vogue are readily classified into three divisions. One mode which was most popular with the earlier assessment companies, was to tax the death-losses equally—so much per member or per thousand of insurance without regard to age. Another method taxes death-losses by some fixed proportion according to the age at entry. Usually this gradation is taken from some mortality table, and results from a misconception of the significance of natural premium tables which are intended to cover an increasing premium, as will be hereafter explained. But a class of societies has arisen in the West, which operate upon a plan which fixes the rate of assessment in proportion to the years of one's age at entry, that is, for ages 30 and 40 in the ratio, 30 : 40. This is artificial and puerile, and it is a relief to know that its originator, once so proud of it, has recently experienced a change of heart. The successful and economical management of this first society served to conceal the defect of the plan for a long time, and to make others think that the success was the consequence of the perfection of the plan.

It is apparent that there is a greater risk at age 40 than at age 30, and that, other things being equal, there is as great a hazard in covering a life now at age 40, but admitted at

age 30, as in covering another life just admitted at age 40. Indeed, taking into account the value of fresh selection, the hazard of the former may well be considered the greater. That a man was insured at age 30, constitutes no valid argument for allowing him when at age 40, to contribute to the fund for paying losses as if yet 30. If such be permitted, he will pay less than his insurance costs and is worth, and as the operation is mutual, some one else must pay more than insurance is worth to make it good. The question of the apportionment of losses has nothing whatever to do with that of level, irregular or rising premiums.

The method of assessing losses by an advancing or sliding scale is mostly used now-a-days, even in co-operative companies, which fact is a recognition of sound principles of life underwriting. In legal reserve companies this method is fundamental and universal. In its crudest form it appears in arbitrary advances of the rates of assessment at intervals, usually of one year, but often of longer periods. Sometimes this advance is made a less objectionable bolus by guarantees, or at least assurances, of a maximum rate beyond which no advances should be made, or that no advance will be made after a certain age or duration of membership is attained.

Usually, however, in the more progressive co-operative companies, and always in regular companies, the actual death-losses are taxed against the members in proportion to the cost of insurance at current ages, according to a standard mortality table. The three tables in use in this country were deduced from the actual experience of companies, the Actuaries, from the combined experience of several British offices, the American from the experience of the Mutual of New York, and Meech's, from the experience of thirty American companies. The first is in general use throughout the country, the second in the offices of several companies, and the last in the offices of two advanced co-operative companies at least. All of these tables provide for a

gradually, but irregularly increasing mortality, converging to one hundred per cent at age 95 or 100. The percentages of annual cost at the various ages form the natural premium table, and that is the basis of the assessment of losses among the members.

In order to illustrate these radically different modes of taxing losses, suppose a loss of \$3 to be made good by three men now aged 20, 30 and 40. The first method described, that of equal assessment without regard to age, gives the following result:

$$\$3 / 3 = \$1 \text{ each.}$$

Assuming that all of these have just been admitted and are therefore assessed at their present ages, the method next described would give this result:

The sum of all the ages is $20 + 30 + 40 = 90$.

$$A \frac{20}{90} \times \$3 = \$60 / 90 = \$.66\frac{2}{3}$$

$$B \frac{30}{90} \times 3 = 90 / 90 = 1$$

$$C \frac{40}{90} \times 3 = 120 / 90 = 1.33\frac{1}{3}$$

$$\text{Total, } \$3.00$$

Assuming, on the contrary, that all were admitted at age 20, this method would give a result equivalent to that of the first, as each would be assessed equally.

Assuming that A had just entered, B entered five years before, and C ten years before, the computation would be as follows:

A, age at entry 20

B, " 25

C, " 30

Sum, 75

Therefore,

$$A \frac{20}{75} \times \$3 = \$60 / 75 = \$.80$$

$$B \frac{25}{75} \times 3 = 75 / 75 = 1$$

$$C \frac{30}{75} \times 3 = 90 / 75 = 1.20$$

$$\text{Total, } \$3.00$$

Any other method of fixed assessment according to age at entry would work in a similar manner.

The third and last method described takes into account the actual ratios, so far as science has ascertained them, which exist between the mortality at one age and at another. The age at entry has no bearing upon this method of calculation. The various tables mentioned differ but little. In what follows, the American is employed. The amount to be taxed against each one is arrived at as follows:

A,	tabular risk per thousand at present age, 7.81
B,	" " " " 8.42
C,	" " " " 9.79
	<hr/>
Sum,	26.02
Therefore,	
A $7.81 / 26.02 \times \$3 = \$23.43 / 26.02 = \$.90$	
B $8.42 / 26.02 \times 3 = 25.26 / 26.02 = .97$	
C $9.79 / 26.02 \times 3 = 29.37 / 26.02 = 1.13$	
	<hr/>
Total,	\$3.00

This division is approximately just and fair. It will be observed that in all this no account is taken as to whether the losses have exceeded the expected losses according to the table or not; the table is used merely as a gauge for the proper distribution of the actual losses among the contributors.

There are two methods of apportioning the outgo for maturities other than by death. The system in use in co-operative bond societies contemplates the taking from the accumulated funds of all the amount necessary to cover maturing obligations without regard to whether the beneficiary has contributed in principal and interest enough to pay his endowment or not. In theory some will reap a profit and others get less than they pay. In practice the lapse of time brings certain ruin. In all regular companies the amount of the endowment is accumulated from the premiums of the holder.

Three modes of assessing expenses have been in vogue. One method makes the expense-cost directly proportional to the mortality-cost. This is now uncommon except as a partial provision in societies which try to cover up the fact that they are spending more than the amount intended for that purpose. One great regular company also uses this method in part, and their actuary skillfully defends it on scientific principles. Another method, more common among the co-operative societies but in use by some regular companies, is to charge a level amount per thousand of insurance for expense purposes. This is evidently fair but in practice, owing to the well-nigh universal custom of remunerating agents by a percentage commission, it works invidiously so as to confine the business of such a company to risks at certain ages only when the commission offered chances to exceed the percentage commission allowed by other companies at the same age. This plan ought, however, to be thoroughly tested before abandonment as it is obviously the just plan.

Among regular companies and in many co-operative societies a different system prevails, the expenses being taxed according to the amount of the premium or more accurately according to the excess of the actual premium over the net premium required by the company's calculations to cover losses only. This excess is known as the loading and is considered to constitute the fund available for expenses. This mode of distributing the expense cost is only defensible on the ground of expediency and because of the exigencies of the business. It bears heavily upon those who have delayed taking insurance until old age; and it also renders endowment insurance with its large premiums and consequently large contributions to expenses less profitable than is desirable.

The words "net premium," employed in the foregoing, call for an explanation which carries us into the distinctions between co-operative and legal reserve insurance. Common sense, which has in most States expressed itself in legislation, demands that a society which undertakes to guarantee to pay

a definite amount upon the event of death and at a guaranteed cost to the insured, should so fix that price and so conduct its business as to make it probable that it can fulfill its engagements. In life insurance this means that a company must not count upon too low mortality nor too high interest. That is all that the expression, legal reserve, means. It is not considered safe in most States for a society to count on a mortuary experience lower than that of the Actuaries' or American tables or upon an interest exceeding four or four and one-half per cent. Such regulations seem reasonable when it is borne in mind that many a company has had a worse mortality experience and that no good trust company would consent to guarantee even four per cent for a man's lifetime. Similar regulations are enforced in other countries by the companies themselves in the absence of law. The only hardship is the sometimes forcing of a receivership when a company is really solvent. This could be avoided by enforcing a high standing as a prerequisite to receiving new business and a lower standard as a condition of continuance of business at all. In calculating the amount of premium which a company should charge, a net premium is reached which does not provide for extraordinary contingencies nor for any expenditure beyond maturities by death or expiry. The actual premium is of course larger in most cases and as has already been explained, the excess is called the loading.

It must be evident that previous to the expiration of the time for which it has been paid to carry the insurance, a company should have on hand sufficient of the premium to cover the probable mortality calls until the next premium is due and payable. It must also be evident that if a premium higher than is required to cover the risk of the ~~one~~ year has been collected on an agreement to furnish insurance at a level price, the company should have on hand more than enough to cover the losses for the remainder of the current year. This is true both because a sum in excess of current

requirements has been collected and should be accounted for and also because at some time in the history of the policy the premium will be inadequate to cover current requirements unless supplemented by a fund accumulated from previous premiums. This is evident since it is the very essence of an average, level or equated premium that it should be higher than the natural premium for a time and then lower.

Reserve valuations, which are such an enigma to many, are merely calculations of the amount companies should thus have on hand at a given date. Such calculations are as necessary in term or natural premium companies as in level premium. Every company should have on hand at all times sufficient to cover the policies' share of probable losses by some standard table up to the time the next premium falls due. For instance if a policy has been paid for a year, and six months have elapsed, the company should have at least enough on hand to cover the mortality demands for six months. If the policy is a level premium policy there should be an additional amount on hand to make good the difference between the contract premium and the premium which would be charged at the present age. For a company cannot carry insurance for a man now aged 40 at a less cost just because he insured at 30; yet it is under contract to furnish it at the rate at age 30. This it can very well do if it has in hand from previous premiums a fund sufficient to cover the difference between the two premiums and not otherwise. Fortunately this amount should be in hand unless interest has been lower than was expected or mortality higher, in either of which cases the premium is too low and the reserve should therefore be yet higher in order to make good the inadequacy of the premium.

If the premium paid with its interest exceeds the required reserve, there is a surplus. Formerly it was the custom to return this in whole or in part every year; but now the more popular plan is to permit the accumulation to continue undisturbed for a long term.

In this way the fifth element of a gain to individual members because of discontinuance comes in. This apparent gain results from the diminution of the number of persons remaining to divide the sum total. Recent statistics, however, indicate that this gain is chimerical and more than counterbalanced by the increased expense of obtaining business. Men need more soliciting to be induced to take anything which ties up money under pain of partial or complete forfeiture, than to take something which will in any case be advantageous. That portion of the insuring public who need the least soliciting, those who desire insurance for its own sake, now-a-days insure in the cheaper societies and fraternities practically without solicitation. This is undoubtedly principally the consequence of the harsh surrender conditions of the regular companies, which could make as favorable a showing as to cost if the insured were at all times permitted to withdraw the unexpended portion of his money. This fact, coupled with their unwillingness to furnish pure insurance on cheap, temporary plans, was what caused regular companies to be met by the competition of co-operative institutions which had their birth in the dissatisfaction of the people with the existing companies.

In the light of recent statistics it would seem dangerous to base rates upon a discount of probable gains from lapses. Yet that is what has been done by a leading co-operative company, and while not admitted, is really done by several others, including some regular companies. All of them, however, leave themselves the loop-hole of a privilege to call for more than the stipulated premium if necessary. This is perhaps well for the safety of the company, but is likely to be very onerous on those who when their accumulated funds give out in old age, are compelled to face the large natural premiums required at advanced ages.

Much more might be said about these and cognate matters, but enough has been said to give a tolerably clear idea of the nature of the various contracts. There is, however, one

other feature not connected with the plans of insurance, which widely differentiates the companies, namely; the form of government. Nothing need be said concerning the stock companies, their system is sufficiently understood. The mutual and co-operative companies are for the most part governed by a proxy system which results in placing autocratic power in the hands of one man or a few men. This has been provocative of nepotism, extravagance and other vices which attend absolutism everywhere. In a few companies and societies the proxy system is modified by restrictions which make it more difficult for one man to perpetuate his sway. In a very few companies and societies proxy voting is not permitted at all, and in at least one company no officer, trustee, agent or employe is permitted to vote any proxies. But in none of these is there any earnest effort made to discover the will of the membership.

The only thoroughly American and democratic method of government is that in use by the fraternities, and consists in a representative system intended to draw out an expression of the wishes of the entire membership. It has resulted well, for although no inconsiderable amount is expended by the societies for social purposes, they have proved more economical than have companies managed by the other system. They have also been more popular, and the cost of obtaining new insurances is therefore much less than elsewhere. If this economy of management could be combined with the more reliable and correct plans in use by the regular companies, there would seem to be every reason to expect unequalled results from this system. A yet more direct and democratic system obtains in one of the mutual societies which submits all important questions to a direct vote of the members by mail. In any case it may well be said that these organizations most nearly approximate what accords with the genius of our age and people.

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RELATION OF TAXATION TO MONOPOLIES.

To the legislator and taxpayer taxation is a purely practical matter; to the economist it is a theoretical question having practical bearings. In a treatment of the general subject of economics taxation should be discussed in connection with the distribution of wealth. The State obtains most of its revenue by taxation, by appropriating to itself a portion of the goods resulting from productive effort. If the State is to take this intelligently, it must know from what source and upon what fund it is drawing the sums assessed; and it cannot know this unless the laws governing the distribution of wealth are understood. The only sound basis of a theory of taxation must be a true theory of distribution.

A study of the laws of distribution will reveal the ultimate source from which taxes must be drawn. The State's chief concern in framing tax laws is in the right choice of the particular objects upon which it is wise to levy her assessments. It is known that most objects have the power of shifting the burden of a tax; and it is desirable to know how this shifting process is going to take place, what laws govern the direction it is to take and determine where it is to end. Whenever a tax has been shifted the object taxed has been able to raise prices and change objective values. This change in objective values may not, but quite likely will, modify consumption. Now, the State may set out with the purpose of raising a revenue without altering objective values or modifying consumption, or it may desire to use the taxing power to accomplish just the opposite. Can the State do either one or both of these things, and if so, how? The legislator must find in the laws of distribution, including those which reveal the basis and nature of

value, the knowledge that will enable him to answer the question.

No eclectic treatment of taxation can be fruitful of results, hence the successive arguments which are here presented in the development of a theory of taxation constitute the links in a chain of deductive reasoning. The premises from which this reasoning sets forth being the laws of distribution, these laws are first enunciated as succinctly as is consistent with clearness. As the result of definite laws, which have been stated by the more recent economists, the several factors in production share very unequally in the distribution of the results of productive effort. Monopolies, in whatever way the one using the term may define its meaning, are generally conceded to receive an especially large share in distribution at the present time. In the case of no other recipient of the surplus of production, however, is there so much confusion in the meaning of terms used, and such indefiniteness of thinking; thus the following discussion of distribution may well devote a considerable space to discussing the basis of monopolies, to setting forth their real nature, and to classifying them as sharers in the surplus arising from production.

Economics has ample need of such an analysis as this. A clearer definition and classification of monopolies, if based on a fundamental analysis of the subjective and objective conditions of consumption and production, will throw much light on future discussions of distribution generally, and of taxation in particular. Having enunciated the laws of distribution and classified monopolies, the essay will pause briefly to characterize the different kinds of taxes in such a way as to bring out their real nature, and then proceed with the elaboration of so much of the general theory of taxation as pertains to taxes levied with the purpose of producing no other effect than that of yielding the State a revenue. The purpose of the essay as a whole is to make clearer the relation of taxation to monopolies.

The laws which, taken together, constitute the general theory of distribution are several in number. The gross results of productive effort must cover six items: First, the costs or sacrifices which producers undergo in production. Measured objectively in material goods, this item includes what society must give producers in order to place them in as good a position at the end of production as they were at the beginning. Second, the wages which laborers are able to secure in excess of remuneration for sacrifices. This share of the surplus may be termed surplus wages. It is not a differential fund, and its amount depends upon the standard of life which laborers seek to maintain, and upon the strength which they can exercise in enforcing their demands for such wages as will enable them to maintain or to raise their conditions of living. Third, land rents, the differential income received by the owners of those appropriated natural agents, whose productivity or desirability is greater than that of the least productive or desirable natural agents which society finds it necessary to appropriate. To this must be added a fourth share, commonly called rent by the business man. It is the income received by the owners of the natural agents on the margin of appropriation. There are no lands but what can command some rent; the owners of lands on the margin receive an income which, in economic literature, has been termed marginal rent. Fifth, the differential income which undertakers and skilled laborers can demand because of their superior intelligence or skill. General Walker has applied the term "profits" to the differential income of undertakers, but in the case of laborers, as well, special intelligence and skill enable them to secure differential wages. In the case of undertakers and laborers the differential amounts secured depend upon personal differences in endowments or attainments, and the common term of personal rent may well be employed for the income of both classes. This use of personal rent is exactly analogous to the use of land rent to designate the differential income

from natural agents. The sixth, and last, item, which the results of productive effort must cover, is interest on capital. The amount of this share is fixed, as the recent economists have shown, by the conditions which determine the value that men put on present, as compared with future, goods.

The fact that these items are here stated seriatim is not meant to imply that they share according to any given order in the distribution of the gross product. The portion which each receives is fixed according to a definite law of its own. None of the factors in distribution plays the rôle of a residual claimant.

These several shares having been provided for, each according to its own peculiar law, there still remains, in a progressive society such as our own, a large residue or free surplus, the study of whose distribution among the factors of production gives rise to some of the most fruitful investigations that have recently been made in economic theory. It is the distribution of this free surplus which chiefly interests us in this discussion of a theory of taxation; it is necessary, then, to state with some fullness the law which governs the apportionment of this fund among the factors of production.

Before doing this, however, it will be well to present, as clearly as may be, the relation which the several shares of distribution hold to each other. This can best be done by employing, in a modified form, some diagrams, with which the readers of Professor Patten's works are already familiar:

It is, perhaps, hardly necessary to explain that in Figure I., the line $a\ j$ indicates the quantity of goods produced, that the line $a\ f$ represents the utility derived from the first increment of consumption, that the line $j\ g$ that derived from the last increment, and that the whole figure $a\ f\ g\ j$, indicates the total sum of utilities possessing value. The costs necessary to produce these utilities are shown by the figure $a\ b\ i\ j$. The value of goods produced being fixed

by the margin of consumption, their total value is represented by the figure $a e g j$. The total utility which the consumption of goods affords consumers exceeds their total value by an amount indicated by the area $e f g$. This is the consumer's surplus. The difference between the costs and the total value of produced goods is the producer's surplus, represented by the figure $b e g i$.

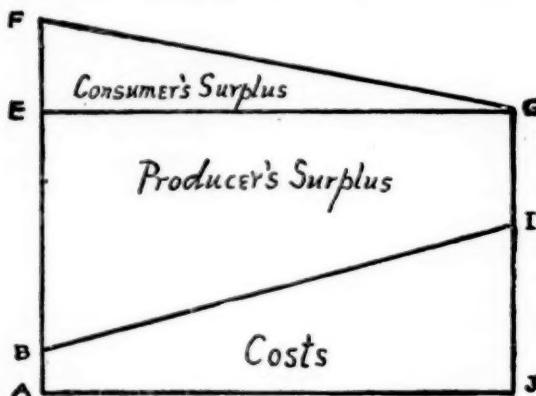


FIGURE I.

Let this fundamental diagram now be so modified as to show the relationship which the several shares in distribution have been declared to hold to each other:

Figure II indicates the way in which the several shares participate in the distribution of the producer's surplus—that portion of the entire figure covered by the area $b e g i$. That part of the producer's surplus which goes to owners of natural agents, undertakers and other producers possessing especial intelligence or skill, as the differential incomes of land rents and personal rents, is shown by the triangle $b e i$. Within the quadrilateral $c d h i$ are indicated the non-differential shares distributed as marginal rents, interest, and surplus wages. The five parts of the producer's surplus, personal rents, land rents, marginal rents, interest and

surplus wages, being each determined by an independent law, their amount at any particular time is a definite and fixed quantity. Hence this part of the producer's surplus may rightly be designated (as has been done in Figure II) as the fixed surplus. The remainder of the producer's surplus, *d e g h*, represents a fund which the various factors of production strive to secure. It is a free surplus which

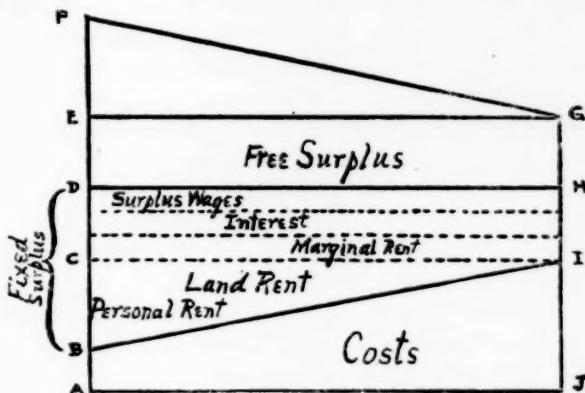


FIGURE II.

goes to the strongest contestants. The producer's surplus is divided into a fixed and a free portion. When speaking subsequently of fixed and free surplus, the fact that they are parts of the producer's surplus will be understood without using such a clumsy term as fixed or free producer's surplus.

The law according to which this free surplus is distributed may now be discussed. As stated by Professor Patten, in his "Stability of Prices," the law is as follows: "Of the factors necessary for production, that factor which tends to increase at the slowest rate will reduce the shares of the other factors to their lowest limits, will have the benefits of all improvements; and must bear all permanent burdens." These factors, according to the classification usual at the

present time, are grouped under the four heads, natural resources or land, labor, capital and intelligence. As concerns the rates of the increase of these four groups, it is probable that the first is, as a whole, increasing the most slowly. Each group, however, consists of many parts, or of many different kinds of enterprises and industries, which are increasing as productive agents at various rates of rapidity and slowness. Although land constitutes the group which, as a whole, is increasing the slowest, it is nevertheless true that parts of other groups are increasing more slowly than some forms of natural resources are being utilized in production. It is necessary, then, in discussing the distribution of the free surplus, not to compare the four large groups with each other, but rather to contrast the individual parts or factors which enter into the large groups. If factor be used in this narrower sense, Professor Patten is strictly accurate when he says that, "Whether any factor obtains a large or small share depends upon its relative rate of increase."^{*} Stated with mathematical precision the law of the distribution of the free surplus would be formulated in this wise: The free surplus of production, the benefits of improvements which increase the free surplus, and all permanent burdens are distributed among the factors necessary to production in

* "The Theory of Dynamic Economics," p. 93. Professor Patten illustrates the working of the above law as follows: "The most extreme case would be when there was no demand for an increase of any of the factors but one. The most slowly increasing factor would secure all the surplus value, and the more rapidly increasing factors would obtain none of the surplus, except their share of the differential gains. Such a condition of affairs would never happen under actual conditions. It merely represents an ideal case, and shows how the distribution of surplus value depends on objective values. Most of the differential gains, however, will be absorbed by rent and profits. In the earlier stage of progress rent will be the prominent element, while in the later stages profits become more important. The increase of intelligence causes society to esteem more highly what were previously regarded as the poorer natural resources, thus reducing the relative importance of rent, and at the same time the increasing differences in men tend to augment profits. . . . There is, however, no sharply defined line between rent and profits on the one hand, and interest and wages on the other. . . . In a dynamic society the tendency becomes stronger to confine rent and profits to differential gains, and to give all the surplus value to the capitalists and laborers. Yet any change in the relative rates of increase will change the distribution of the surplus value, giving a part of it to landlords or to the managers of industries."

inverse ratio to their rates of increase. This law, however, is to be understood as a general one, explaining the normal distribution of the free surplus. It is possible for sudden changes in particular industrial activities, or in legislation, temporarily to suspend the regular operation of the law, to the advantage of the less favored factors in production.

In order fully to explain this law it is necessary first, to show what are the slowest increasing factors which obtain the benefits arising from production and absorb the increasing fund of the free surplus; and second, to demonstrate that these slowest increasing factors must also bear the permanent burdens which nature, or society by tax laws or otherwise, may impose on any agent of production. The former of these two considerations involves the definition, discussion and classification of monopolies; for it will be found that the slowest increasing factors of production are certain kinds of monopolies, whose real nature can be explained only by showing their relation to the various other forms of monopoly.

By a monopoly is meant any productive agent possessing monopoly force. A monopoly force is that which gives to a productive agent the disposal of a definite portion of the surplus resulting from production. This is a broad definition but it is one that will be seen, as the discussion proceeds, to apply to but few factors that have not been more or less frequently termed monopolies. It is broad, chiefly because it indicates the common element of all monopolies and makes it possible to bring them all into relation with each other.

No progress can be made with a discussion of monopolies without first clearly perceiving the basis upon which they rest. This basis is a dual one, to be found in the subjective conditions of men as consumers and producers, and in the objective conditions under which production is carried on. The observation and analysis of objective industrial phenomena will not alone suffice; indeed, the initial point of

the study must be the investigation of the wants and desires of men. These wants and desires are the forces which impel men to adopt and insist on certain peculiar forms of consumption. Consumption thus holds the helm and dictates the course which production must follow. If consumption insist stoutly upon having things which are scarce or difficult to obtain, it furnishes the first of the conditions which make possible the establishment of a strong monopoly. If consumption have the inclination and ability easily to readjust its demands when the objective conditions of production make the satisfaction of those demands a difficult matter, it can partially, if not wholly, take from any particular industry its monopoly power. As between the laws of consumption and those of production, the former are of the greater assistance in disclosing the real foundation of monopolies, whatever may be the form they take in production.

The other fact which gives monopolies a subjective basis is the existence, among producers, of different degrees of intelligence and skill. In producing the things demanded by consumers certain producers, by virtue of their superior endowments or attainments, have an advantage over others; they possess a monopoly force by means of which they are able to secure an extra portion of distributed wealth.

The objective basis of monopolies, that is, the objective phenomena of production which assist an industry to secure a monopoly force, results, as is well known, from the natural and artificial limitations, which condition the supply of those goods and services that consumers demand. Natural resources, especially those necessarily employed in the production of particular kinds of goods, are either limited in quantity or available at any given time under conditions of increasing cost; the same is true of the number of desirable locations for dwellings, sites for business blocks and manufacturing establishments, and of possible routes for profitable transportation lines. This fact gives to the owners of natural agents or desirable sites and routes a monopoly power,

provided the condition of consumption be such as to enable them to take advantage of their ownership by raising prices.

At any given time, then, the strength of the monopoly force which may be secured by an industry will be decided by two things: Objectively, by the physical conditions under which production is carried on to supply the goods demanded by consumers. These conditions decide in what lines of productive effort competition is wholly or partially restricted without recourse to artificial means, and determine in what industries competition can be checked or eliminated by legislation, combination of capital or other artificial devices.

These objective conditions, however, are of significance only because of the conditions controlling the consumption of the goods produced. To restrict or exclude competition in any line of production, and thus to gain control of it, is of value only to the extent that consumption is controllable. The intensity and stability of the demand for the articles produced by a monopoly are what give the monopoly its strength and make it a source of profit. The intensity of the demand which consumers make for the products of a monopolized industry determines the height to which the prices of those products can be raised. The stability of the consumers' demand measures the extent to which they will insist on consuming a particular product instead of trying to satisfy their desires by using some other article.

A monopoly was declared to be any productive agent possessing a force which gives the productive agent the disposal of a definite portion of the producer's surplus; and in the preceding discussion of the basis of monopolies it was said that better grades of land and superior intelligence and skill give their possessors a monopoly force. The incomes derived have been referred to as differential, and termed land rents and personal rents. Lands on the margin of cultivation of availability for other uses than cultivation also constitute monopolies. There being no no-rent lands, and land for many purposes being of limited quantity, the owners of the

least desirable, but necessary, lands are able to command a definite portion of the surplus. The income was named marginal rent. Likewise capital is able to command a definite portion of the producer's surplus; the strength of its monopoly force being dependent on the value which men place on present, as compared with future, goods. Wage-earners, as a class, also secure a portion of the surplus; the force of the monopoly they possess being determined by their standard of life. Such are the monopoly forces that control the distribution of the fixed surplus into five general funds. The forces which account for the disposal of the free surplus give to certain monopolies not only what they may secure in the form of land rents, personal and marginal rents, surplus wages or interest, but more than this. Unless prevented by the State, certain monopolies will receive the entire free surplus.

Before proceeding to discuss the monopolies which secure the free surplus it will be best to give an outline of the complete classification* of monopolies that is here had in mind. A few terms used will require explanation:

		FORM.	INCOME.
Monopolies . . .	Differential	{	Land, Personal,
	Non-differential or Marginal . . .	Optional	Land, Goods, Labor,
		Exclusive	Private, Public,
			Tallage, Fiscal Taxes.

* The classification of monopolies presented and discussed in this paper is to be accredited mostly to Professor Patten. On January 15, 1894, the author read before Professor Patten's Seminary, at the University of Pennsylvania, a paper on "The Theory of Taxation," in which a distinction was drawn between the two kinds of monopolies here classed as "Differential" and "Exclusive." The discussion which followed the paper induced Professor Patten to elaborate and present to certain members of the Seminary a much more comprehensive classification, which, after slight modifications as the result of suggestions made by the members of the Seminary, assumed the above form. In rewriting his original paper for publication the author has thought it best to strengthen his discussion of taxation by bringing it into relationship with the more comprehensive and fundamental classification of monopolies.

By this classification every recipient of the distributed surplus is termed a monopoly; it receives a definite portion because it possesses a monopoly force which enables it to command that particular amount. The preceding pages have sufficiently explained the basis of the division of monopolies into differential and non-differential made in the classification. The non-differential monopolies may with equal propriety be termed marginal. The fund from which they draw is one fixed by the margin of consumption. The former include lands of superior fertility, locations of especial desirability, and personal intelligence and skill of the higher order possessed by undertakers and skilled laborers. These differential monopolies have no power of exerting any influence upon prices. They simply control the distribution of a fund whose amount is determined by prices. Prices are determined at the margin of consumption by the forces possessed by the marginal monopolies. These forces not only determine what the prices of labor and capital as a whole shall be, but also decide how much society must pay in order to secure the articles which are produced at the margin. The non-differential or marginal monopolies are of two kinds, which may be described as Optional and Exclusive.

This use of the term optional being new in economic literature calls for explanation. It includes the non-differential monopolies enjoyed by individual owners of land, goods or capital and labor. Now, as was stated in a preceding paragraph, each one of these three general factors of production possesses a monopoly force resulting from an independent and definite law. Capital, as a whole, can command a certain part of the surplus as interest because men value present goods higher than future ones. The individual owner of capital, however, possesses not only this, but an additional monopoly force, because of the fact that he enjoys several options as to the way or place in which he may invest his means, and because he always has the choice between

investing his capital or deriving enjoyment by consuming it. If the demands for capital in the railroad or banking business be weak, he has the option of investing in a hundred other enterprises; if no opportunities for investment offer as much satisfaction as can be gotten from consuming the capital, he will choose to do the latter. He possesses by virtue of these facts a monopoly force, which may rightly be termed optional. The marginal landowner, likewise, possesses a similar optional monopoly. The marginal rent which he can command by using his land for agricultural purposes will never be less than he can secure by changing his farm into pastures or ranches. The rent which he can secure by raising wheat will not be less than he can obtain by growing corn, oats or barley. In a similar way an individual wage-earner has a monopoly force, due to the fact that he has the option of several kinds of work. The option is, of course, limited to the group of laborers of which he is a member. He does not have the option of entering another non-competing group; but within his group he may choose between several kinds of manual labor, between bookkeeping and running a small store, or between many other employments. His option allows him to command the wages of the most advantageous occupation in his group. Reference is here had to non-differential wages; if the person possess greater skill or intelligence than other workmen doing the same kind of labor he will also be able to secure differential wages.

The other kind of non-differential monopolies was termed exclusive, because they represent factors of production that are able to exclude competition. In the differential and optional monopolies the various subjective and objective conditions to which attention has been called bring about a restriction of competition, but not an elimination. Land rents and personal rents are competitive. Marginal rent, surplus wages and interest have each a very definite maximum which competition will not let them pass. In certain

industries, however, it is possible to exclude competition, and they thus possess an exclusive monopoly force. This exclusive monopoly force may be possessed by a business as a whole, or may be held only by certain branches of a large enterprise; every complex business necessarily includes many factors of production under one common organization; some of these factors will be differential monopolies, some optional and others exclusive.

Exclusive monopolies are classified as Private and Public. What each of these is and what kind of an income each obtains require a discussion of some length. Before beginning this it will be well to stop at this point in the discussion of monopolies long enough to bring out more clearly the relationship of the foregoing classification of monopolies with the general theory of distribution that was represented by Figure II on page 73. The following diagram will show that relation graphically:

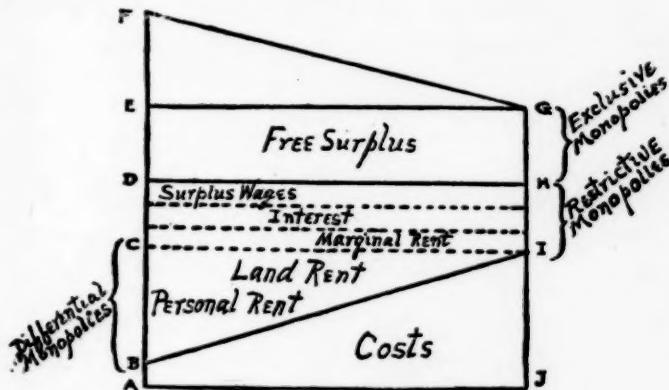


FIGURE III.

The exclusive monopolies are here represented as receiving all the free surplus, they being of two kinds, public and private. The former kind will be discussed more at length later on; it is the monopoly which the State holds in her

taxing power, a power that enables her to take of the surplus of production such a sum as she may desire. Under private exclusive monopolies are included those that are able to exclude competition.

There are several means through the aid of one or more of which an industry or a factor of production can exclude competition. Legislation affords one of these means in granting patents, copyrights and charters. The charters granted to transportation, electric lighting and gas companies often furnish the only condition necessary for the exclusion of competition. By the combination of capital in large amounts, also, competition is often prevented. The operation of the trust and pool is well known. The industrial enterprises, thus combined under one ownership or management, may consist principally of the differential monopolies, land and intelligence or skill, as in the case with the Standard Oil Company, or the businesses which these unite may be but secondarily differential monopolies, and consist chiefly of the optional class. Land may be required in but comparatively small amount, and the employment of labor and capital be necessarily large, a condition of things which holds true of the Sugar Trust. The Standard Oil monopoly was made possible because of the limited area of oil lands; the Sugar Trust has been established because Mr. Havemeyer has great sagacity, and has had command of very large amounts of capital. The Sugar Trust has driven competition from a field where it was strong, and holds it out at present only by a very sagacious management of large amounts of capital.

The various special ways by which competition is actually excluded or restricted in industry need not be dwelt upon at length. Suffice it to say that the more fully competition can be excluded from an industry the stronger becomes that industry's position in production, the more is it able to check the rate of its increase, and thus to compel society to pay liberally for any rapid expansion that may be desired of the business. The slowest increasing factors of production are

those that are able to exclude competition, in other words, the exclusive monopolies. Theirs is the industrially strong position. The differential and optional monopolies possess forces which give them definite portions of the producer's surplus; the exclusive monopolies obtain these portions and more; to them goes the free surplus.

As Figure III indicates, the producers on the margin of production obtain none of the fund secured by holders of differential monopolies. If these marginal producers possess only optional monopolies, they will, as a class, receive, at any given time, only that portion of the surplus which the monopoly forces of marginal rent, surplus wages, and interest are able to command. The individual members of this class of producers will be able to control differing portions of the fund thus distributed, because they possess options of unequal strength.

If the holders of optional monopolies are not producing along the margin, they will also secure a part of the differential fund distributed as rents, land and personal. Any producer or business having only differential and optional monopoly forces is operating in the realm of competition. If, however, the subjective conditions controlling consumption, and the objective conditions of production, to which reference has been made, be such that the increase of any form of production can be rendered slower than the rate with which society enlarges its demand for the products of that particular kind of production, then the producers in that field possess a monopoly due to the exclusion of competition. The comparative strength of the monopoly forces thus held depends upon the relative rates of the increase of those factors of production in which the exclusion of competition is possible. The exclusive monopolies divide among themselves the free surplus which exists for distribution at any given time in the ratio of their relative strength.

The restricting phrase, "at any given time," is inserted in the preceding sentence because the different portions of

the fixed surplus change in amount from time to time. The monopoly forces yielding the incomes, rents, interest and wages vary. While agricultural rents, for various reasons, are falling in America, urban rents are rising with the growth of cities, and with the increase of economic and social conditions which give to limited areas great value, as business sites or as "fashionable quarters" for the residence of the wealthy. The differential incomes which skill and intelligence command as personal rents are probably increasing somewhat. Surplus wages are growing with the rise in the standard of life. Interest is doubtless falling. In a word, the fixed portion of the producer's surplus is a definite sum at any given time; but changes constantly, and is at present probably increasing. But the growth of the fixed surplus, as a whole, does not keep pace with the progress in production. The free surplus is becoming steadily larger as society advances.

The free surplus has been shown to go to exclusive monopolies. At present the monopoly force which commands most of the free surplus is held by private individuals. It will be shown directly that the State may possess herself, through tax laws, of as strong an exclusive monopoly force as she may choose to have. The income derived by private exclusive monopolies is one with which economic literature thus far has not dealt. It has no name. In the classification on page 78, I have called it "tallage." The term suggests a levy which the politically or industrially strong make upon those who are weaker. According to Webster the verb "tallage" still means "to lay an impost upon; to cause to pay tallage." In presenting this word for introduction, I have sought to coin a term whose meaning suggests as much of the new idea as possible. This tallage does, and, at the same time, has the advantage of not being in common use.

It was said that in order to explain the law of distribution fully, it was necessary to show which are the slowest

increasing factors that obtain the benefits arising from improvements in production; and second, to prove that these slowest increasing factors are also obliged to bear all the permanent burdens that may be imposed by nature or society upon any agent of production. The former of these two tasks has been performed by the foregoing analysis and classification of the several monopoly forces which control the distribution of the surplus. The second task can be accomplished more quickly.

The statement of the law of distribution was: The free surplus of production, the benefits of improvements which increase the free surplus, and all permanent burdens are distributed among the factors necessary to production in inverse ratio to their rates of increase. That the slowest increasing factors of production, the exclusive monopolies, must bear all permanent burdens, can be shown by either one of two lines of argument: The factors of production possessing the monopoly force which makes them differential monopolies, have that force because society has need of those factors. Society having this need gives the differential monopolies enough of the surplus to cause them to increase with sufficient rapidity to enable them to supply society's wants. If an added burden be permanently imposed upon such factors and a part of the surplus formerly obtained by them be taken, their rate of increase will lessen. This will strengthen their monopoly force. Society will lose a part of the supply desired, unless it increase the portion of the surplus given the differential monopolies by bidding higher for the products of these factors of production. The same is true of those factors which are optional monopolies. Both kinds of monopolies obtain definite portions of the surplus, portions which are safe-guarded for them by the monopoly forces whose nature and basis were outlined above. Society does not give these differential and optional monopolies all the surplus, and, as long as that is true, these factors will be able to pass the burdens, which may be permanently imposed on them, over to those factors,

a part of whose income is derived from the free surplus, and is, therefore, not insured against attack by virtue of possessing differential or monopoly forces. The truth of this conclusion has been excellently shown by every attempt to tax interest. Capital, possessing a monopoly force which enables it to command a definite portion of the fixed surplus, is safeguarded against the burdens which taxes may impose upon interest. Such burdens are inevitably shifted to the free surplus.

The other line of argument by which the same conclusion is reached is similar and differs only in being based more directly upon the phenomena of value. The industries receiving none of the free surplus can bear no added burdens, because, if such burdens be imposed, they must either raise the prices of their products or lessen the supply. If the supply be kept intact, and prices be increased by the amount of the burden, prices of other products must fall. The burden will be shifted upon other producers, because general values cannot rise. Likewise a burden falling on an industry increasing at a medium rate will also be shifted. The amount of free surplus which such an industry is receiving is only sufficient to induce it to maintain the position it holds in production. Society gives it a certain amount of the surplus to induce it thus to maintain itself. Unless it can shift the permanently added burdens, society will find the desired supply of the products of that industry lessened. Permanent burdens therefore, rest on the slowest increasing factors.

Taxes are one form which a permanent burden, or requisition, upon the surplus of production may take. Like other burdens, they will, after they have been in force long enough for business to adjust itself to the conditions they establish, fall, in their final incidence, on the slowest increasing factors of production, the exclusive monopolies. Taxes thus stand most intimately connected with the problem of distribution and the theory of monopolies.

This relationship of taxation to distribution and monopolies can be considered to somewhat better advantage if the foregoing classification of monopolies be somewhat modified, so that the fixed and free surplus will be more definitely contrasted. Thus changed the classification becomes:

Monopolies	FORM.		INCOME.		Fixed Surplus
	Restrictive	Differential	Land Personal	Land Rent Personal Rent	
		Optional	Land Goods Labor	Marginal Rent Interest Labor	
	Exclusive	Private Public		Tallage Fiscal Taxes	Free Surplus

There is only one new term introduced into this classification—"restrictive." As was said above, the differential and optional monopolies are the realm of competition. The monopoly forces do not here prevent competition, but merely restrict it within certain limits. The forces say where competition shall have sway. The exclusive monopolies, however, exist by means of excluding competition. The division of monopolies into restrictive and exclusive, therefore, is a rational one. It is a useful one for the purposes of this paper, because it puts those monopolies to be discussed into a separate class.

In entering upon the discussion of taxation we ought to keep clearly in mind both the relation which costs, the fixed and free surplus, and consumer's surplus bear to each other, and the forces which control their changes. In a progressive society the producer's surplus is increased both by a decrease in cost and by a rise of the margin of consumption. The line which divides the consumer's surplus and producer's surplus (compare Figure I.) is not fixed. Were the margin of consumption to fall the consumer's surplus would grow larger and the producer's surplus would decrease; if the margin of consumption rises the opposite will take place. Social progress implies a rise in the margin of consumption, and a consequent increase in the producer's

surplus as a whole. Furthermore, as was pointed out on page 84 the line dividing the fixed and free portions of the producer's surplus is a variable one, the increase of the free surplus being, at present, more rapid than that of the fixed surplus.

Among the forces which have the power of altering the relation of the consumer's and producer's surpluses, or of changing the relative amounts of the fixed and free portions of the producer's surplus, are tax laws. The real nature of taxes is shown by the changes which they produce of this kind; in this way is their influence on consumption production, and distribution indicated. The best classification of taxes that can be made is one based on their power to produce such changes.

Classified upon this basis taxes are of three kinds, fiscal, social and industrial. That may properly be called a fiscal tax which takes a portion of the free producer's surplus without affecting the amount of the fixed surplus, or producing any change in the consumer's surplus. Such a tax has no effect on consumption, nor on production as a whole; it simply diverts a larger or smaller part of the free surplus from the pockets of the owners of the slowest increasing factors in production into the public treasury. That may be called a social tax which, although it falls ultimately on the producer's surplus—as all permanent burdens do—has, for its immediate effects, modifications either of the fixed surplus or of the consumer's surplus. Such modifications produce social effects through changes in production and consumption. That tax may be called industrial, which is levied for the purpose of so applying the proceeds of the tax as to increase the free surplus by more than the amount of the tax. A tax, raised and applied to the improvement of such an important waterway as the Great Lakes, would be an example. An industrial tax may sometimes take the form of a pure business transaction. Such will be the case if the United States decides to sell its bonds to secure capital

with which to build the Nicaragua Canal, and then pays the interest and principal of the bonds out of the future receipts from the canal.

To give a complete presentation of the theory of taxation, one that treated each of the three kinds of taxes fully and brought them into relationship with the theory of monopolies as presented above, would carry the discussion beyond the limits of this paper. From the sociological standpoint, the social taxes are the most important. A great deal of good can be accomplished by an intelligent use of them by the State. Their nature and influence is inadequately recognized, they demand a full and searching analysis. In this paper, however, that analysis will be waived in order to direct attention to fiscal taxes with the purpose of answering the question, how and where a tax may be levied so that it will yield a revenue without affecting either consumption or production, *i. e.*, without having any social effects.

The source of fiscal taxes, as has been indicated, is the free surplus. The objects upon which such taxes ultimately fall are the slowest increasing factors of production. These are the exclusive monopolies, by whom the free surplus is obtained. Fiscal taxes are paid out of the tallage, the income which the exclusive monopolies derive from the free surplus.

A tax having the free surplus as its source, and the tallage received by the various special monopolies as the objects which bear its burdens, may be so levied as to have no social effects. This levy may be made directly upon the tallage, or it may be placed there indirectly by being first imposed upon objects having the power of shifting the imposition in such a way that neither consumption nor production will be modified.

A direct tax on the slowest increasing factors of production can have no social effects until the tax becomes heavy enough to absorb the entire tallage. There will be no social changes resulting from an alteration in consumption, because

the absorption of the tallage by the State will not affect prices. The products or services of the exclusive monopolies have prices so fixed as to yield maximum gains, hence these prices cannot be raised, to cover the tax, without decreasing the gains. These direct fiscal taxes, however, must be levied upon the gross receipts of exclusive monopolies rather than upon the gross product. If every product be taxed, the exclusive monopoly may find that the point of maximum gains is to be reached by raising prices and decreasing sales. The tax on gross product in that case would not be purely fiscal, but partly social. A direct tax of this kind may be imposed upon tallage without diminishing production. The output of exclusive monopolies will not be lessened nor the investment of capital in them be checked before the tax absorbs all the tallage. As long as the exclusive monopolies receive gains equal to those which they command as possessors of optional and differential monopoly forces, they will prosecute and develop their business activities.

Fiscal taxes may also be indirect. This can be shown to be possible by a line of reasoning analogous to that employed to prove that permanent burdens imposed upon production must be borne by the slowest increasing factors. Fiscal taxes were defined to be those which take a portion of the free producer's surplus without affecting the amount of the fixed surplus or producing any change in the consumer's surplus. An indirect tax being shifted by the first objects upon which it is imposed, cannot be fiscal, unless the tax is shifted from the fixed to the free surplus without lessening the former and without increasing or decreasing the consumer's surplus through changes in consumption. If, however, a moderate tax be levied on a factor of production in which competition obtains, *i. e.*, on a differential or an optional monopoly, and if the factor be one whose articles of production are those for which there is a strong and stable demand, the tax can be shifted without producing social effects. The prices of the articles produced by such a factor can rise

sufficiently to cover a moderate imposition, without sensibly affecting the consumption of staple and strongly demanded articles. This rise in the prices of the taxed articles will cause a readjustment of objective values. General objective value cannot rise, hence the value of some articles must fall. The articles whose price will permanently fall will be those produced by the exclusive monopolies. They are the slowest increasing factors, and, according to the law of distribution, must bear permanent burdens. The shifted tax will thus reach the tallage and be borne by it. Production, however, will not be affected, as was shown above, unless the entire tallage be taken.

It will be seen by the above that the number of indirect taxes which are purely fiscal cannot be very large; the number of articles whose price can be increased without sensibly affecting their consumption being relatively small. There are, however, many staple articles whose price may be moderately increased without exerting more than a slight influence upon consumption. Indirect taxes imposed upon them would have but small social effects and would be chiefly fiscal in character. The legislator, therefore, who is desirous of imposing indirect taxes for the purpose of securing a revenue without thereby modifying social relations to any noticeable extent, has ample opportunity for realizing his aims.

In the imposition of an indirect fiscal tax there is no ethical question involved. Such a tax is a purely economic phenomenon. The tax having been shifted, by changes in prices, from the fixed to the free portion of the surplus, and this having taken place without sensibly modifying the consumer's surplus, the ultimate effect of the tax is simply to take a part of the free surplus. Society simply prevents a part of the free surplus from becoming private property. Without the tax, the entire free surplus would go as tallage to the owners of exclusive monopolies; with the tax imposed, they receive a sum decreased by the amount appropriated by the public. Society has the first claim on the results of social

progress; and, in the case of indirect fiscal taxes, the State supplies its needs by a law as purely economic as that governing the rate of interest. Should the owners of exclusive monopolies find that the State had enacted a law which diminished by a certain common percentage the tallage they respectively received they would have no grounds for complaint. The tax law would change the conditions under which they must produce, but all would produce under the same conditions. A change in the current rate of interest would produce a like effect. Questions of equity and justice would arise in neither case.

If, however, the State does not in this general manner divert into its own possession that part of the free surplus, which the public finances may require, before the same has become private property, but allows the entire free surplus to be distributed as tallage to the exclusive monopolies, then the levy of taxes may involve problems of equity. Indirect fiscal taxes affect all individuals alike, in that they modify the conditions of production equally for all. This cannot be true of direct fiscal taxes. They must be levied on the tallage of particular exclusive monopolies, and must necessarily change the relation which these monopolies bear to each other, and alter the respective positions which they hold as industrial factors. There are different classes of producers enjoying exclusive monopoly privileges and a direct fiscal tax must change the apportionment of the free surplus among these classes. These classes are of various degrees of importance to the economic and moral progress of society. As long as the State does not take by direct taxes all the tallage obtained by these different exclusive monopolies, they may rightly insist that the State distribute its impositions among them with equity. The only true basis of an ethically just apportionment of the surplus among these several classes is the services which they respectively render society. Hence, in levying direct fiscal taxes upon the slowest increasing factors of production, *i. e.*, upon the tallage of the

exclusive monopolies, the State ought so to distribute its impositions among the several kinds of exclusive monopolies as to favor the respective classes according to the economic use they make of the free surplus received. This should be done in order that the larger amounts may be left in the possession of those who do most to promote social welfare and progress.

It will, of course, be obvious to many that the facts of distribution, as outlined in this paper, and especially the theory of monopolies here presented, have important bearings on other questions than taxation. Probably nobody regards the present distribution of wealth as an ideal one. That it is far from being such is attested by our desire to see it made better. It is being improved at present by the steadily growing strength of the forces which give larger shares to the lower ranks of producers. As these forces are made stronger, will distribution become less unequal. The existence of dependent social classes having no firm standard of life, and little power or desire to raise that which they do possess, is cause as well as evidence of the present glaring inequalities in distribution. A larger sharing in the results of social progress is to be secured the less fortunate classes by improving the objective and subjective conditions which operate to raise the standard of life. In this way will the monopoly force be strengthened that gives them command over a portion of the surplus. Taxation is one, but only one, of the forces that may be employed to further that end. Fiscal and industrial taxes will yield a revenue by means of which the objective conditions of life may be made better. Social taxes will do this also, and may, at the same time, be employed to effect desirable social changes. At any given time the surplus of production is distributed by definite monopoly forces. The operation of these forces can be modified by fiscal, social and industrial taxes, the nature and operation of which this paper has attempted partially to set forth.

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BRIEFER COMMUNICATIONS.

THE FARMERS' MOVEMENT.

The widespread movement among the farmers to-day is their effort to adapt themselves and their occupation to the ever-changing environment, so that they shall be once more masters of the situation, receiving their due share of the product of American industry and exerting their due influence in the formation and development of national character. As a result of his industry the farmer has made food and the raw material of our factories produced from the soil more and more plenty, of better quality and cheaper. Here we find an efficient cause of his pecuniary embarrassment; the supply of agricultural products has been increased beyond the demand, with the consequent fall of price. If the surplus of agricultural products was matched by a corresponding surplus of gold, of personal services, of means of transportation, and of the comforts, conveniences and luxuries of life, such universal plenty would enrich all, beggaring none. But with over-production in agriculture, and monopolies of coal, of telephones, of electric railroads and of other essentials of modern civilization, the farmer finds himself at a great disadvantage.

Farmers have been content in the past to confine their labors to the production of wealth, leaving to others the control of those conditions which determine the distribution of this wealth. At last, however, they have awakened to the fact that the problems of distribution have not been successfully solved. They believe that they get too little for the product of their labor and others too much, that they must bear heavy burdens of society while they are at the same time practically debarred from the enjoyment of the advantages of the progressive culture of modern life. When in this discussion we speak of the farmer, it must be born in mind that we refer to the average farmer, who tills on his own account his own or another's farm. We do not refer to those who derive a large share of their income from other sources than their farms, nor do we mean the farmer of exceptional ability or those whose opportunities have been remarkably fortunate. An investigation, carried on for a number of years, upon different lines, based upon statistics official and unofficial, as well as upon other reliable sources of information, shows that the average farmer, east and west, north and south,

receives a lower remuneration for manual labor and for labor of superintendence than the average man in any other of the great classes of bread-winners, much less than those, who have not carefully considered the matter will think possible.

Because of this comparative decadence the farmer has for years demanded equal taxation, in order that the farmer's thousand dollars invested in his farm shall bear no more burdens than the thousand dollars of other men. But the statesman has confessed that he has not been able to remedy the evils of unjust taxation. He even acknowledges that they are growing worse.

The farmer has been content to refer questions of finance to the banker. Every autumn the farmers of America have hundreds of millions of dollars worth of crops which makes a demand for millions of currency. The supply of money at that season is inadequate to meet the demand. Hence, the price of crops falls relatively and the price of money advances. Year after year the farmer has been forced to sell in a glutted market and buy in times of scarcity. He demands a system of finance that shall make the supply of money at all times equal to the demand. He wants an elastic currency that shall do the money work of the nation with justice to both buyer and seller, to both creditor and debtor. But the bankers appear to confess that they cannot produce a medium of exchange and a standard of deferred payment that is capable of meeting the exigencies.

The farmer demands cheap transportation *between the farm and the market*; and he is met with the reply that the rates from the elevator of the middleman to the ship of the foreigner were never before so low as now, but this proves of little benefit to the farmer. When the farmer insists that modern masters of transportation might devise a system of cheap transportation from the country station to the city, he is told that the intricacies of the modern railroad system are too great and it cannot be done; to attempt it would bankrupt the roads. Moreover, when the farmers themselves, or their friends, organize an electric railroad to carry themselves and their freight at reasonable prices from the farmhouse to the city, the great railroad corporations oppose them at every point, going even to the extent of waging open war against the selectmen of the country town who lawfully attempt to lay the rails of the electric road across the track of the steam railroad.

The farmer turns to the politician and asks of him that his party shall champion the cause of the farmer and see to it that the government guarantee to the agricultural classes their rights and promote their interests equally with those of other citizens. But the farmer finds the politician more abundant in promises than prolific in efficient action.

Finally, the farmer has, in his emergency, turned to the scholar and asked of him a fair statement of the problem and a clear solution, based upon historic and economic grounds. But the scholar has been too preoccupied and prejudiced to give the question that painstaking investigation and careful and impartial decision which alone can make his answer of much practical value to the hard-pressed agriculturist.

Thus has experience taught the farmer that the solution of the problem of the future of American agriculture and of the American agriculturist depends upon himself. The farmers' movement is simply the awakening of these sturdy citizens from engrossment in manual labor and the struggle after material wealth, to a sense of their duty first to themselves and then to society. Such a movement may have obstacles, it may be slow, it may do much apparent damage, but it is irresistible, and in the end its results will prove to be of value. It has reached the stage where guidance, rather than ridicule and denunciation, is needed.

The innumerable details of the movement may be classified under organization, education, co-operation, political action.

I. Organizations of farmers are now many and strong, constantly increasing in numbers, usefulness and power. The Massachusetts Board of Agriculture devotes fifteen pages of its report for 1892 to a directory of the agricultural organizations of the State. In other States organization is carried to as great, or to a greater extent. Besides these there are many national bodies. At the St. Louis Conference, year before last, twelve or more distinct national organizations of farmers were represented, whose aggregate membership numbered hundreds of thousands.

Of the many national bodies several are worthy of especial mention. The twelfth annual session of the National Farmers' Congress, composed of delegates from each State, appointed by the Governor thereof, was held November, 1892, at Lincoln, Neb. This body is non-partisan, deliberative and advisory in its action, and exerts its influence upon the formation and direction of public opinion. It has created a National Board of Agriculture with headquarters at Washington, whose duty shall be to study the general agricultural interests of the whole country and see to it that no conflicting legislation shall injure the industries of any State. Two hundred members, from the majority of the States, attend the annual sessions, paying their own expenses. They represent the more wealthy and better educated agriculturists.

The National Grange, the oldest and most conservative of the distinctively agrarian organizations, held its twenty-seventh annual

session last year. Its membership numbers many thousands, its finances are sound, its organization is stable, its work is becoming more and more extended and valuable. Having experienced the flood and ebb of the tide which accompanies reform movements, it is content to advance with the even stream of national development, intent upon exerting its power at the opportune moment and place to secure the best effect.

Beginning in the South, but extending through the North, under the leadership of the late President L. L. Polk, the National Farmers' Alliance has been an aggressive power. This union of the farmers of the South with the farmers of the North, ignoring sectional lines and old causes of division, is one marked characteristic of this new phase of the agrarian movement. It illustrates and proves that the farmers of America have at last learned the value and the method of permanent organization. They have moreover shown a disposition to join forces with organizations of artisans and other citizens, whenever such union proves itself desirable.

Another organization of great value to the farmers' movement is the Association of American Agricultural Colleges and Experiment Stations. It has a full corps of officers and an executive committee. It is composed of delegates from each of the fifty-seven agricultural schools and colleges and of the fifty-three experiment stations of the United States. The association, therefore, represents the fifteen hundred members of the faculty and corps of workers connected with these institutions and also the many thousands of students and alumni of these colleges, a large number of whom are farmers or intimately connected with and dependent upon the agricultural classes. While this association is a scientific body, it is at the same time interested in the success of the farmer, and exerts a powerful influence upon Legislatures and Congress, so far as the educational or economic relations of agriculture and agriculturists are involved.

The farmers' movement is not then to be measured by the action of any one organization, but can only be properly understood when the resultant of many separate and varying forces is accurately determined.

II. In their endeavor to secure organization the farmers soon discovered the necessity of broadening their education, especially in the field of economics and politics. Hence, every farmers' organization has this object pre-eminently in view. These associations are themselves efficient schools, giving to their faithful members training in public speaking, in writing, in reading, in thinking and in administration. As a result of twenty-six years of this work the Grange has become a national university, employing hundreds of teachers, college educated as well as self-taught, who stimulate thought and lend inspiration to

their fellows. Recently it was "resolved that the Worthy Lecturer of the National Grange be instructed to continue the distribution of subjects for discussion to Subordinate Granges, and that questions of political economy be given prominence, such as those relating to gold, silver, greenbacks, national banks, corporations, interstate and transcontinental transportation, and the tariff, as it relates to agriculture." A similar work is carried on in the Alliance, which has prepared for its local branches a system of weekly lessons in political science. Ballads and songs have been multiplied, as a method of propagating and fixing new ideas in the minds of the people. In all agricultural colleges the science of economics and of politics is receiving more and more attention.

A National Reform Press has been organized, including about a thousand newspapers, pledged to support the demands of the farmers' movement. There are a few dailies, but the most are weeklies. The circulation of many of these newspapers is 10,000, some reach 50,000, one perhaps 100,000. These are scattered over the whole country, and their influence cannot but be great. Besides these reform papers there is the agricultural press, an instrument of educational force not only in matters relating to agriculture, but also in subjects of political and economic science.

The town meeting, the district school, the public library, the Chautauqua movement, the country church, each and all, do much for the education of the farmer, far more than is commonly imagined. Upon one point the farmers of to-day are fully agreed. They are one in demanding for themselves and for their children the best education the times can afford. They have successfully insisted that the town, the State and the nation shall unite in providing every facility for educating the farmer in everything pertaining to the science and art of agriculture and to the knowledge and practice of manhood. As a consequence we find in America a system of agricultural education approaching the best the world affords. The great drawback is that only a few comparatively as yet are pecuniarily able to take advantage of the facilities thus offered by the State.

III. The farmers' movement has thrown a great deal of light upon co-operation, both distributive and productive. The educational results of the past twenty-five years of experiment have been of great value. The nature of the problem, the conditions of success, the dangers and difficulties in the way, have been made clear and the preparatory work accomplished which will make co-operation in the future more common and profitable.

So far as distributive co-operation is concerned the farmers have learned that the essential element of success lies in large orders for

cash. As a result middlemen have not been driven out of business, but the farmers of the North have succeeded in escaping that thrall-dom to the storekeeper which has been so disastrous in the South.*

There are throughout the country many successful co-operative stores, which benefit not only their patrons, but also indirectly all consumers. But the more common form of co-operative buying is through a business agent, who receives the orders of many farmers in the district or State, and so furnishes them goods at the lowest wholesale prices. In the business of insurance, co-operation among farmers has had good results; they report that hundreds of thousands of dollars have been saved in premiums on fire and life policies. Co-operation among milk-producers, fruit-growers and cattle-men, for the purpose of marketing their products, has proved very remunerative.

In productive co-operation many experiments have been made which have been only partially successful. Manufacturers who have charged exorbitant prices have been brought to terms, but the farmers have learned that they can rarely carry on the farm and the factory successfully at the same time. Nevertheless, in the production of butter and cheese, co-operation has proved eminently successful. As agricultural science introduces new methods and tends to make the farm a great factory, where raw material of the soil, properly treated with chemical fertilizers and manipulated by means of elaborate machinery, shall be transformed into the finished products for the market, the greater is the necessity and the profit of co-operation, and the more capable do farmers find themselves of working together.

IV. Organization, education, co-operation, have led the farmers' movement towards political action. For generations the farmer confined himself closely to agriculture and to participation in the affairs of the town meeting. In the meanwhile, the cities grew in number, in population, in wealth and in influence, until he found that the twenty to thirty per cent of the people who live in cities, largely recent importations from foreign countries, actually governed not only the municipalities, but also the States and the nation, leaving the votes of the other citizens scattering and devoid of power. In order to protect their interests the farmers made use of the right of petition. They elected lawyers and other professional men to represent them and their interests in Legislature and Congress. They appealed to their party leaders. They sought to interest the press in their behalf. They brought their case before the courts. They presented themselves before the bar of public opinion. But they were disappointed. It made little difference whether they sent a farmer or a politician to

[*Cf. "The Peons of the South," by Geo. K. Holmes, in the ANNALS for September, 1893. The Editors.]

the Legislature. If the farmer went to the capital fresh from the plow, among a crowd of lobbyists, he was as clay in the hands of the potter. If his constituents kept him there year after year, until he learned the ways of legislation, then he ceased to be a farmer and became a member of some other class, perhaps a stockholder in a great railroad, or manufacturing corporation, with interests in common with the opponents of agricultural classes.

But from repeated failures and many disappointments the farmers are at length learning how to take care of themselves. They have become convinced that political action on their part is essential to their well being, that they must sustain their own interests, for others will not consider them. In their various subordinate organizations they discuss the situation. Their best representatives then bring the matter before their district, State and national bodies, where the whole subject is again debated. In this way they come to a decision as to what is practicable. They then formulate their demands, which they lay before the proper authorities in the town, the State or the nation, or in the caucus, or convention. They press and enforce their demands patiently and persistently, meeting all attacks bravely. They fight for their rights from their own point of view, believing that the free and fair contest of opposing interests will be the best for the whole people. If their interests are not presented as forcibly as those of other classes the result will be not only disastrous to them, but will also seriously endanger the public good. In the furtherance of these ends they have learned to trust no man implicitly, but to hold every man whom they choose to represent them responsible to them for his action.

The farmers have learned something of the methods of legislation. Hence when a hearing is given by a legislative committee, the farmers are on hand with their best speakers. When a bill is pending in which they are interested, letters, telegrams and petitions from all parts of the State come pouring in, urging legislators to do their duty. At State capitals, as well as at Washington, the farmers have their standing committees always on hand to watch legislation and see that their interests do not suffer. There are, however, so many ways of influencing legislation and the power of capital is so well-nigh irresistible, that the farmers have been beaten time and again and seen their cherished and just demands ignored. But their persistence has taught them and they are coming better to understand the science and practice of politics. Their organizations have been nominally, and to a large extent, really non-partisan, but from experience they have learned that votes in caucus and convention, as well as at the polls, are the real sources of power. Of these votes they still possess in

many States a majority, and throughout the nation a large minority. United with other laboring men, their votes would constitute a clear majority over all others. They now realize that their votes are their own, to be used for the realization of their demands. During the last few years they have been experimenting with the ballot and some surprising results have followed. The movement within the old party lines has been strong, leading to notable results, but it has not been confined to these. The farmers have found that both of the leading parties have for so long a time been dependent upon other elements than the farmer's vote for success, that it is difficult to transform them at once into humble servants of the agriculturist.

During the year of the presidential election many of the farmers seemed inclined to support a distinctive People's party, not really expecting to elect a president, but hoping to learn something, attract national attention to their demands and cast a vote sufficiently large to give them a basis for future action, either as the people's party destined to supplant the old parties, or else as a body of producers allied with the artisans, whose real interests shall be made a serious object by one or the other of existing parties. The results show the measure of their success. Out of a total vote of 12,154,542, the People's party cast 1,122,045 ballots. Their candidates received votes in every State of the Union. They carried Colorado, Idaho, Kansas and Nevada by majorities, and North Dakota and Oregon by pluralities, which gave twenty-two votes in the electoral college, being the first time since 1856 that a third party has secured an electoral vote. Investigation shows that this vote was almost entirely from the rural districts of the South and West. The People's party succeeded in increasing their representatives in the House from three to twelve. In the Senate they have several senators. In four States they elected their candidate for governor. Considering the difficulties against which this new party was obliged to contend, the success gained was indeed remarkable.

The radical demands of the farmers, as set forth in the platform of the People's party, are socialistic and are not likely soon to be formally ratified by the public opinion of the nation. But the People's party and its platform are only an incident in the greater movement of the farmers of America. It is an experiment being tried by the radicals among the agrarian leaders, but which has not yet received the endorsement of the great mass of the farmers. A great political party is not the growth of a day. Whenever the farmers of the United States shall as a unit demand of either of the old parties a certain line of policy and prove it to be practicable and just, one or the other of these parties will surely submit to their will. Class legislation in

behalf of the farmers may in some cases be secured, but the probabilities are that the final results will nevertheless be good. By pushing the system of class legislation to its logical outcome, the *reductio ad absurdum* will be apparent and a reaction must set in.

Farmers have suffered in the past because of their neglect to compete earnestly for their own interests, but now the signs of the times indicate that in all parts of our country they have at last aroused themselves and have begun a movement, the outcome of which will be to secure for them their full share of the products of the national industry and of the advantages of modern civilization.

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THE GRANGE AND THE CO-OPERATIVE ENTERPRISES IN NEW ENGLAND.

In this age of organization there is scarcely a branch of industry not organized in some way for the promotion of its interests. The first strong organization which sought to combine the farmers for common protection, encouragement and enlightenment was the National Grange of the Patrons of Husbandry, founded in Washington, D. C., Dec. 4, 1867. A National Grange with constitution and ritual was established, then Subordinate Granges. Fifteen Subordinate Granges might themselves organize a State Grange. All were obligated to strict obedience and fealty to the National Grange. In spite of some opposition to it, in this "monarchical" feature of the organization probably lies the secret of the success which has tided the Order over many difficulties.

The Grange owes its origin to Mr. O. H. Kelley, a "plain practical farmer," a clerk in the Agricultural Department at Washington. After the war, President Johnson selected Mr. Kelley to investigate the conditions and needs of the farmers in the South. He returned full of the idea that in order to better their condition, organization must be effected. On consultation with friends interested in the farmer's welfare, the National Grange of Patrons of Husbandry was conceived by Mr. Kelley and six associates. Women were admitted to an equality in membership, thus adding that distinctive feature without which it is claimed the Grange would not be in existence to-day.

The Declaration of Purposes is a broad and worthy one, aspiring to promote all that is best in the mental, moral, social and spiritual development, as well as to advance the material interests of the patrons and more broadly to increase the welfare of all society. Any

Grange, if true to its obligations, cannot be partisan in politics, religion or in any subject involving natural differences of opinion.*

In 1868 Mr. Kelley gave up his government position and started for Minnesota, his home, organizing Granges as he went. In 1873 the first great meeting of the National Grange was held in Georgetown, D. C., at which eleven States were represented. This meeting practically marks the epoch of its permanent organization. Until then the affairs were entirely in the hands of the founders.

The years 1872 to 1875 mark a period of phenomenal growth. In 1873 alone, 13,000 subordinate Granges were organized.† Politicians tried to use it, wild business schemes were engaged in in some parts of the country. Thousands became members who had no interests in farming.

The reason for this extraordinary growth is found largely in the discontents arising from the causes which resulted in the financial crisis of 1873, and from the industrial depression following. The inflation of the currency and the increase in credit through each venture were instruments in building up gigantic speculative operations, which finally resulted in a crash. During the apparent prosperity of trade men were attracted from agriculture to trade. Farm land declined, while city real estate rose. Speculation and "corners" in staple farm products caused great fluctuations in prices, while the prices of farmers' necessities rose.

A further and important reason is found in the disaffections caused by the real and alleged extortion of the railroads. In the West and South the pressure from this cause was naturally greatest, since from these the great shipments of grain are made, and there the growth was largest. In 1875 the Order numbered about 1,500,000 in every section of the country. The Grange, now in the hands of the farmers thus excited over their real and alleged wrongs, was in danger of being perverted from its original educational and social aims.

Just at this time occurred the famous "Granger" railroad legislation, which aroused such interest throughout the country. It was essentially a farmers' movement, but the Grange as a body is not to be held responsible. Since the Grange was then in the zenith of popularity, all acts coming from the farmers were branded as "Granger" without discrimination.‡ However, the Grange does not disclaim an influence in the matter.

* See Section 5 of the "Declaration of Purposes."

† N. J. Bureau of Statistics, Ninth Annual Report, p. 336.

‡ Mr. C. W. Preisem says, "In spite of the assertions of Mr. C. F. Adams and others, it can be shown that the Grange was not responsible for the Illinois legislation. When the constitution of 1870 and the law of 1871 were passed, the Grange

Vast business enterprises were engaged in.* But enterprises in the hands of unskilled and often unscrupulous hands, failed. The financial benefits lost, those who had entered for purely selfish motives rapidly withdrew, and the order assumed nominal proportions. Mr. Preisen (1888) says, "the Grange still lives but its glory is departed." Yet it seems that the part that will give the truer glory still remains to teach the farmer to be more scientific and business-like in his methods of work, more alive to his own best interests and those of the community.

The true prominence of the educational features as conceived and reiterated by the Grangers themselves is emphasized by the master of the New York State Grange (1891): "These financial gains or savings are more than gratifying to our members, yet they pale into insignificance in comparison with the educational benefits of our beloved order. . . . We hold that education should ever be accorded the most prominent place in our Grange deliberations, and that no pains should be spared by our Grange educators to impress this truth, that the success and perpetuity of our order must and will depend upon the intelligence of its membership." †

Perhaps no better idea of the work the Grange has accomplished and claims to have been instrumental in accomplishing can be gained than from the proclamation issued by the National Grange on the occasion of its twenty-fifth anniversary (1891).

After mentioning its work in organization, influence in broadening the sphere of woman, and the influence upon the home, the proclamation states that the Grange has:

"5th. Prevented the renewal of patents on sewing machines, thus saving to the people fifty per cent of their cost, which amounts to millions annually.

"6th. Transportation companies were taught that the creator is greater than the creature. See Granger cases decided by the Supreme Court of the United States.

"7th. Had passed and have enforced oleomargarine law.

"8th. Have passed laws somewhat restricting alien landlords and corporations from getting government land.

"9th. Had interstate commerce law passed.

"10th. Had cabinet position created for agriculture, thus giving the President's cabinet a representative of the parent of all vocations.

had scarcely a foothold in the State. The State Grange was organized March, 1872. "Outcome of the Granger Movement." *Popular Science Monthly*, vol. xxxii, p. 206.

* In 1876, the Order was said to own "five steamboat or packet lines, thirty-two grain elevators and twenty-two warehouses."—*Ibid* p. 371.

† "Education is the great central object of our Order." Worthy Master J. H. Brigham, National Grange, Journal of Proceedings, 1892.

"11th. Has had agricultural colleges, experiment stations, and farms and Farmers' Institutes established in many States of the Union.

"12th. Has had some effect in local and State tax levies and established State Arbor Day.

"13th. Has caused the reform ballot law to be passed in many States.

"14th. Has increased the State appropriations for public schools.

"15th. Has at all times fostered the cause of free education.

"16th. Local achievements, such as building halls, making roads, planting trees and vines, establishing libraries, reading rooms, banks, fire insurance companies, co-operative enterprises, etc., too numerous to mention, might be cited."

Some of the public questions which the organization at present is interested in agitating are:

Passage of measures to prevent adulteration of food. Passage of the Washburn-Hatch bill. Free delivery of mail to rural population. Non-irrigation of the arid lands of the West by the government, on the ground that the lands are not yet needed.* The securing of laws to remedy unequal taxation. Promotion of interest in agricultural colleges. Action for better roads, etc.†

Naturally the Grange first declined as a power in the West and South where its growth had been most phenomenal. During its decadence other associations of farmers, with similar purposes, though avowedly with more political aims, arose, chiefly the Farmers' Alliance. But its strongest foothold seems to be taken in New England and the Middle States where the educational and social features are most emphasized. In New England at the present time the Order is steadily growing. In 1886 it numbered there between 25,000 and 30,000.‡ Rhode Island was not then represented.§ In 1892 the membership was about 50,000.||

As has been stated the development of the Grange in New England has come since the period when financial interests were the prime inducements for organization. Hence its distinctive features have remained educational and social. At the present time, however, interest in co-operative enterprises seems quite strong. A committee reporting to one of the New Hampshire State Granges expresses the

* National Grange, *Journal of Proceedings*, 1892. Worthy Master, J. H. Brigham.

† See reports of the various committees in the State Granges.

‡ E. W. Bemis, "Co-operation in New England." *Papers of American Economic Association*. vol. i, p. 353.

§ C. W. Preisen, "Outcome of the Granger Movement." *Popular Science Monthly*, vol. xxxii, p. 201.

|| Compiled from report of National Granges and reports of the State Granges.

feeling thus: "In these days of low prices and pushing unscrupulous competition we find the mind of the farmer opening to the idea of co-operation with a degree of receptivity and appreciation never before observable in men of his calling."

Again and again in looking through the reports of the various Granges we find the opinion that "those Granges that are the most active in co-operative business are the strongest in every point." The reason for this is not difficult to see, for the spirit, "push" and business ability which would make men successful in these enterprises, must needs make them active in the wider work of the Grange.

Perhaps no class is more at the mercy of the middleman than the farmer. The prices of those things which he buys are largely controlled by custom (unless he live near some large business centre, and the majority do not), while the prices of what he sells, his grain, cattle, sheep, wool, fruit, etc., are sold at the competitive prices of a world market. His distance from trade's centres where competition keeps prices near the minimum, is a reason, then, why he desires especially the benefits of consumptive co-operation. Yet the very fact of the farmer's isolation is one of the chief obstacles to co-operative enterprises among them. Another hindrance to the co-operative spirit is the extreme individualism in the farmer's character, found particularly in New England, as writers upon New England character never tire of reiterating. Upon these conditions the Grange has power to exert a considerable influence. First it overcomes, in a measure, the farmer's isolation, by making him a unit in the one central organization, and further, by discussing common interests and plans for common improvement with his neighbors, his sympathies are broadened and his interests become less self-centred.

While these influences only partially remove the hindrances due to situation and character, practical difficulties are also to be met in the direct operation of the schemes.

Suppose, first, the co-operative store to be conducted on the plan of general country stores, buying a farmer's small products as well as retailing to him necessaries. Even then there will be the temptation to trade elsewhere, if business or other interests takes the farmer to another place—and often the advantage gained by buying or selling at a co-operative store cannot compensate for time and inconvenience involved in making extra trips, when the trading may be done in connection with other business. If the store retail goods only, the objections become more weighty, since the average farmer depends largely upon the exchange of his butter, cheese, eggs, etc., for his necessary groceries, while his cash is used in purchasing clothes, furnishings, implements and the like. Hence it may be far more to his advantage

to buy where he can sell his small products, even though he get a discount at a co-operative store. Where the Grange employs a purchasing agent the same objections hold as with the retail store, except that inconveniences are apt to be more accentuated, and less provision for a latitude of tastes is possible.

If strong co-operative stores, under good management and conducted on strictly business principles, were instituted in the beginning, this phase of co-operation might seem more hopeful. But in farming communities it seems that it can be little hoped that present self-interest will be sufficiently sacrificed to surmount the difficulties in small enterprises, or that capital and support will be given to large enterprises at once.

Co-operation among the New England Granges has been confined almost entirely to the buying of commodities and to fire insurance. The subject of co-operative marketing is being discussed with some confidence, particularly the marketing of staple products. One year, at least, the New Hampshire State Grange employed an agent to ship the apples of Patrons to England, but without great success since the Patrons were too fearful of the venture.

The method of co-operative buying most prevalent in New England is that by trade discounts or trade lists. The State Granges make arrangements with certain large manufacturers and wholesale firms for discounts on cash payments. Each subordinate Grange chooses a purchasing agent who receives the lists and makes the purchases. The agents and members receiving the discount are bound to keep the discounts secret. Another analogous method is to furnish members with "trade cards," on presentation of which to the firms under contract with the State Grange, discounts are allowed. This method is employed largely in Vermont, Rhode Island and Connecticut, while Massachusetts has mere purchasing agents and Maine has its Grange store.

The results of these enterprises, as reported to the several State Granges, is as follows:

In New Hampshire but little has yet been done though considerable interest is manifested. In 1891 the Richdale system was urged upon the attention of the Granges as combining the buying and marketing features, and as a system toward which it was advisable to work, adopting trade cards in the meantime.

Vermont reports only a beginning in co-operative buying, with a fair degree of interest.

Of the success and extent of enterprises in Rhode Island, we have been unable to obtain any definite knowledge. Probably little is done, as the Grange has not been long instituted there. Trade cards are used to some extent, however.

In Massachusetts the Executive Committee of the State Grange reports as follows in 1891: "Co-operation—the trade problem—is as yet unsolved, and we have thought the matter over carefully and we would recommend that each Subordinate Grange place more confidence in their purchasing agent." Of ninety-four Granges reporting to the State Grange in 1891, six only report co-operative buying. In 1892, seven out of ninety-eight report some co-operative buying. Only two of the seven Granges are identical with those reporting in 1891. Of these Manhan Grange, in 1891, reports a buying to the amount of \$3000, with a membership of 102; in 1892, with a membership of 110, it reports a business amounting to \$2500. Dudley Grange, with 125, reports business to amount of \$4654 in 1891, but makes no report in 1892. At Westport the Grange Co-operative Union Store sold about \$7000 worth of goods in 1891, and Patrons received four per cent rebate on the amount of their trade. The Grange numbers ninety-two members.* Such isolated facts can only be used as broad indications. They seem to justify the conclusions that co-operation is not a strong power in these Granges, or we should hear more of it in their reports. They would seem to indicate also that the enterprises were not of a very long standing.

In Connecticut the results are reported as not very encouraging. In 1891 the Executive Committee complained that Patrons gave away prices and discounts and loaned their trade cards.† In 1892 the same committee reports that replies to circulars sent out to Granges and trading houses as to the satisfactoriness of business relations have been rather disheartening. "We find in these relations too little harmony and co-operation existing between Patrons and those parties with whom we have negotiated for mutual benefit." An attempt has been made to organize Grange stores, but interest was slight and no money was pledged. The committee advocated a stock company of small shares.

Maine furnishes no definite reports, and we may conclude that co-operative enterprises have little vitality there. The State Grange has a store at Portland which is said to have never failed to pay six per cent interest on the stock. The executive committee for 1891 state that the volume of trade has been increasing steadily, and the working capital is turned over about six times in a year.‡ It merits

* Massachusetts State Grange. *Journal of Proceedings*, 1892. Report of Master of Westport Grange.

† Connecticut State Grange. *Proceedings*, 1891. Report of the Executive Committee. They state that many cards had to be withdrawn. "In every case, as far as possible to learn, the fault was with the Patron."

‡ This store was organized in 1877; had a capital of about \$50,000 in 1886, with a trade of about \$175,000. E. W. Bemis, "Co-operation in New England," p. 354.

the confidence of banks and business men in Portland. Its one great obstacle is lack of sufficient capital to enable the managers to buy large quantities at the best advantage, showing that patrons do not give the support their interests demand.

The strongest co-operative enterprises of the Grange in New England are the fire insurance companies. Connecticut, New Hampshire and Massachusetts each have one. The Connecticut Patrons' Mutual Fire Insurance Company was organized in 1888. In 1892 there were about 1000 policies out, representing a risk of about \$1,600,000. In 1891 alone, policies to the amount of \$552,926 were taken out.* The first assessments were made in 1892, and this owing to the unusually heavy losses from lightning. The Massachusetts Fire Insurance Company began business in 1887. In 1890, it reports 1050 policies in force, covering \$1,187,586 worth of property. The New Hampshire company is the strongest. In 1892 it had 1600 policies, covering insurance to the amount of \$2,200,000, as against 1399 policies in 1891, covering risks amounting to \$1,872,677.17. No assessments have been necessary.

The rate of insurance is one-half of one per cent for three years—less than one-half the ordinary rates.

It is to be noted that few attempts at co-operation of long standing have been found. The Maine State Grange Store has been in operation longest, about sixteen years. It is also to be noted that the enterprises thus far attempted have been, in the main, of the simplest character. The difficult problems in co-operation have scarcely been touched. The financial gains, all told, cannot be very considerable; but these attempts are certainly of important educational character, as they stimulate interest in the questions before the people, and teach the farmers by practical experience the difficulties attending the application of some of the panaceas for the workingman's woes.

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THE PENNSYLVANIA TAX CONFERENCE.

By an Act of the Legislature of Pennsylvania, passed May 25, 1889, a commission consisting of eight members was created "to prepare a uniform revenue law covering both State and local taxation, and to report the same to the next legislature." This commission consisted of the Auditor-General, one representative of the county commissioners, two experts on financial questions, and one representative of each of the following industrial interests in the State: manufacturers,

* Connecticut State Grange. Proceedings, 1892. Report of Patrons' Mutual Fire Insurance Company.

financial and mercantile interests, agricultural interests and "wage-workers." The commission held several meetings in Harrisburg and Philadelphia, to which individuals were invited to give their testimony in regard to the defects in the existing system of taxation, and to suggest remedies. As a result of their deliberations we have a report* containing the bill approved by the majority of the members of the commission, with their reasons therefor, and supplementary reports by the Auditor-General, Thomas McCamant, by Mr. John A. Wright, and by Professor Albert S. Bolles, respectively, dissenting from the views of the majority, and suggesting the reforms which in *their* opinion are called for in the taxing system.

This report was submitted to the State Legislature of 1890-91, and on the basis of it several bills were proposed and discussed at considerable length in both Houses. The discussion served only to emphasize, on the one hand, the pressing need of *some* reform in the taxing system, both State and local, and, on the other, the impossibility of coming to an agreement as to just *what* reform is demanded on the basis of existing knowledge on the subject. The Legislature adjourned without having taken any definite action.

In the course of the debate it was incidentally suggested on the floor of the Senate by Mr. J. A. Price, late of Scranton, that representatives of the various material interests in the State on which taxation falls in the first instance, should be called together and asked to formulate some plan on the basis of which future tax levies might be equitably distributed. This suggestion was received with favor by many of the leading citizens of the State, and after considerable correspondence, Mr. Price, on January 25, 1892, issued a call for a meeting of representatives of the six great interests in the State, viz., agriculture, transportation, manufacturing, labor, trade and the county commissioners, to be held at Harrisburg, February 4, 1892. In response to this call, twenty-four gentlemen representing the above interests came together and created the institution, unique in the history of tax reform movements, known as the Pennsylvania Tax Conference. The peculiarities of this institution are: 1st, it has no legal existence; 2d, it owes its origin to the efforts of private citizens, and is supported entirely by voluntary contributions; and 3d, through it all the great interests in the State are working together harmoniously to obtain exact information in regard to the defects of the present taxing system as the necessary preliminary to any rational discussion of needed reforms.

During the first meeting of the Tax Conference a permanent chairman and secretary were elected, and the following committees were

* "Report of the Revenue Commission appointed by the Act of the Legislature of Pennsylvania, May 25, 1889." Pp. 198. Philadelphia, 1890.

THE PENNSYLVANIA TAX CONFERENCE. III

appointed: (1) A commission to make exhaustive investigations into the value of all classes of property in the State, and the taxation of this property; (2) a committee to examine the taxing systems of other American States; (3) a committee on finance. The Tax Conference has held four meetings, the last having taken place at Harrisburg, February 9, 1893. At the third meeting a further committee was appointed to report concerning the principles upon which a new tax bill should be based. The conference has discovered that the task of securing the exact information it requires as a basis for a new tax law is one of greater difficulty than was at first anticipated. It has not been discouraged, however, by the magnitude of its undertaking, but has pushed on the work with increasing enthusiasm. The reports of its committees which have already been submitted and which are promised in the near future will constitute a collection of statistics bearing upon the distribution of property throughout Pennsylvania, and the incidence of State and local taxes, such as has never before been brought together for any State in the Union.

Up to the present time, besides reports of minor importance from the committees on the taxing systems of other States and on the principles which should underlie a system of State and local taxation, two reports have been submitted by the commission on "valuation and taxation," and printed at the expense of the conference. The first* of these reports is divided into three parts, as follows: Part I treats of the actual valuation of all classes of property in the State. Part II treats of the amount paid in taxes by each class. Part III takes up the amount of property exempted from taxation not covered by the exemptions specified in the constitution of 1874. In order to obtain the facts contained in this report a corps of experts was employed by the commission to visit the different counties and examine the books of the county commissioners. No pains were spared to make these statistics as accurate as possible, and no one can read the report without feeling that the result is a credit to all those concerned in the investigation. Here we have brought together, in compact form, just those facts, the knowledge of which is most essential as a basis for any new tax legislation. If the Tax Conference should disband and have nothing to show for its activity but this report on "Valuation, Taxation and Exemption," it yet would have done an immense service to those interested in the promotion of tax reform. But it has not been satisfied with this one report, which must, after all, reflect to a large extent the inaccuracies inherent in the "official" statistics supplied by the State

* "Valuation, Taxation and Exemption in the Commonwealth of Pennsylvania." A Report to the Pennsylvania Tax Conference by the Commission on Valuation and Taxation. Jos. D. Weeks, Chairman. Harrisburg, Oct. 13, 1892. Pp. 34.

and by the counties. At present the commission is carrying on three separate investigations much more detailed and laborious in character than the general investigation already brought to a conclusion. These are: (1) An investigation into the actual valuation and taxation of real estate in each county of the State. (2) An investigation into the actual valuation and taxation of railroad property. (3) An investigation into the valuation and taxation of all other classes of corporate property in the State.

In connection with the first investigation the records of fully 30,000 sales of farms and lots in different parts of the State are being secured and compared with the assessments of the same appearing upon the books of tax assessors. In connection with the second investigation the commission is securing returns from every railroad in the State showing their mileage, their issue of stock and bonds, and the value of the same, and the amounts paid by them in taxes. The third investigation is expected to accomplish the same result for corporations other than railroads.

Up to the present time but one report * has been made by the commission touching these three investigations. This report contains some data concerning the actual and assessed valuation of real estate in eighteen counties out of the sixty-seven in the State. The records of 5304 sales of farms and lots were examined and compared with their assessed valuation. Of these the selling value was \$10,366,897, and the assessed value only \$5,819,976, or 56.1 per cent of the selling price. The relation of assessed value to salable value was found to vary from 37.1 per cent in Westmoreland County to 81.8 per cent in Lancaster County.

I am informed by the permanent secretary of the Tax Conference, Mr. W. R. Tucker, of Philadelphia, that the material for final reports upon the first two subjects of investigation mentioned above (real estate and railroads) has been already collected, and that the investigation of the third subject is well under way. We may expect, therefore, the appearance of these further reports in the course of a few months' time. When the Commission on Valuation and Taxation has completed its statistical labors, the committee appointed to discuss the principles which should underlie a new tax law will be in a position to make its final report, and the Conference will then proceed to draw up a bill based upon its investigations, to be submitted to the next Legislature.

Up to the present time the Tax Conference has expended eleven thousand dollars in connection with its investigations, all of which

* "Report of the Commission on Valuation and Taxation" presented to the meeting of the Pennsylvania Tax Conference held at Harrisburg, February 9, 1893. Pp. 4.

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has been voluntarily subscribed by citizens of the State interested in tax reform. Predictions in regard to the final result of the efforts of the Pennsylvania Tax Conference would be premature at this time, but it is safe to say that the citizens of this State have hit upon a very happy expedient for effecting reform in the system of taxation, and that sister States, laboring likewise under the disadvantages of a taxing system not at all suited to present industrial conditions, will do well to adopt a similar policy.

H. R. SEAGER.

Philadelphia.

PERSONAL NOTES.

AUSTRIA.

Brünn.—Dr. Stephan Bauer became, September 26, 1893, Privatdozent for Political Economy and Statistics at the Technical High School at Brünn. He was born May 20, 1865, at Hüttdorf, near Vienna, and had his early education in a Vienna gymnasium. In 1884 he entered the University of the same city, and after devoting himself especially to social and economic studies, secured, in 1889, the degree of Doctor of Law. He was awarded by the legal faculty a traveling scholarship on the basis of an essay (in manuscript) on the history of the iron law of wages. He proceeded to Paris, where he spent the winter of 1889-90 in the study of the history of the economic sciences in the National Library. The following six months he spent in similar work in London. In 1891 the International Statistical Institute held its sessions in Vienna, and Dr. Bauer acted as secretary. In 1892 he was appointed as statistical reporter for the Chamber of Commerce and Industry at Brünn, where he has been active in the organization and preparation of industrial and labor statistics. In 1893 Dr. Bauer founded, in conjunction with Professors Grünberg and Szanto and Dr. Hartmann, the periodical *Zeitschrift für Social- und Wirtschaftsgeschichte*.

Dr. Bauer is a member of numerous scientific organizations: the British Economic Association, Société d'Études sociales et politiques of Brussels, Gesellschaft österreichischer Volkswirte of Vienna, and the Mährischen Gewerbeverein of Brünn. Dr. Bauer's contributions to periodical literature have been very numerous, among them the following:

"Ueber die Messung des Volksvermögens bei den englischen Merkantilisten und politischen Arithmetikern," Statistische Monatschrift, 1887. Vol. xiii. Nos. 11 and 12.

"Zur Entstehung der Physiokratie." Conrad's Jahrbuch, 1890.

"Nicholas Barbon, Ein Beitrag zur Vorgeschichte der klassischen Oekonomik." Ibid, 1890.

"Arbeiterfragen und Lohnpolitik in Australasien." Ibid, 1891.

"Recent Studies on the Origin of the French Economists." Quarterly Journal of Economics. October, 1890.

"Letters from Austria." Economic Journal.

In Conrad's Handwörterbuch, the articles, "Fawcett," "Gewerbe-gesetzgebung in Grossbritannien," "Konsumentsbudget der Haushaltung." In the Dictionary of Political Economy, edited by R. H. Inglis Palgrave, "Arbuthnot," "Arithmetical political," "Armstrong," "Arnd," "Arnould," "Atkinson," "Balance of Trade," "Barbon," "Barrington," "Bell," "Bernard," "Block," "Boecler," "Boucerf," "Boulainvilliers," "Bray, C.," "Bray, J. F.," "Brewster," "Brissot de Warville," "Butel-Dumont," "Cantillon," "Dangeul," "De la Jonchère," and "Diderot." Furthermore, contributions to industrial and labor questions and statistics in the publications of the Chamber of Commerce of Brünn, numerous reviews in scientific periodicals, and shorter articles in the weekly press.

Graz.—Dr. Ernest Mischler,* formerly Extraordinary Professor at Prague, has been appointed Ordinary Professor of Statistics and Political Economy at the University of Graz, and entered upon his duties in November, 1893. At the same time he was appointed Director of the Statistical Office of Styria, and is at present engaged in the organization of bureau. In conjunction with Professor J. Ulrich, of Prague, Professor Mischler has begun the publication of an "*Oesterreichisches Staatswörterbuch*," an encyclopaedia of public law in Austria, which will probably, when completed, consist of over 2000 large pages. In this comprehensive work as many as seventy scholars throughout Austria are co-operating. To the list of Professor Mischler's publications noted in a previous number of the ANNALS should be added the following:

"*Handbuch der Verwaltungsstatistik.*" I Band. "Die Grundlagen der Verwaltungsstatistik." Pp. 323. Stuttgart, 1893.

"*Amtliche Statistik in den einzelnen Staaten.*" Conrad's Handwörterbuch.

"*Die österreichische Gewerbe-Inspektion.*" Archiv für soziale Gesetzgebung.

"*Internationale Statistische Uebersichten*" (conjointly with G. v. Mayr). Allgemeines statistisches Archiv.

Further, a number of briefer articles in the *Handelsmuseum*, *Blätter für soziale Praxis* and *Sozialpolitisch Centralblatt*.

FRANCE.

Paris.—One of the leaders of earlier Socialism, Victor Considerant, died at an advanced age at Paris, Dec. 27, 1893. M. Considerant was born at Salino, Jura, on October 12, 1808. Early in life he became a convert to the Socialistic doctrines of Saint Simon and Fourier. After Fourier's death he edited Fourier's journal, *La Phalange*.

* See ANNALS, vol. ii, p. 541, January, 1892.

After the February revolution he sat in the Constituent and Legislative Assemblies. In 1849 he went to Belgium, and thence sailed for America, where he purposed preaching the Socialism of Fourier. He did not return to Paris until 1869. Since then he had lived in the French capital. He published many works on Socialism. Among them are :

- "*L'apocalypse, ou la prochaine rénovation démocratique et sociale de l'Europe.*" 1849.
- "*Considérations sur l'architectonique.*" Paris, 1835.
- "*La conversion, c'est l'impôt.*" Paris, 1837.
- "*Contre M. Arago ; réclamation adressée à la chambre des députés par les rédacteurs du feuilleton de la Phalange.*" Paris, 1840.
- "*Les quatre crédits, ou 60 millions à 1½ p. 100. Crédit de l'immeuble. Crédit du meuble engagé. Crédit du meuble libre ou du produit. Crédit du travail.*" Paris, 1851.
- "*Débâcle de la politique.*" Paris, 1836.
- "*Déraison et dangers de l'engouement pour les chemins de fer.*" Paris, 1836, libr. sociétaire ; 1838, au bureau de la Phalange.
- "*Description du phalanstère et considérations sociales sur l'architectonique.*" Paris, libr. phalanst., 1848 ; 3^e édition, libr. sociétaire, 1848.
- "*Destinées sociales, exposition élémentaire complète de la théorie sociétariaire*" (dédié au roi). 2 vols. Paris, 1836. Nouv. édition, 1851.
- "*Exposition du système phalanstérien de Fourier.*" 3^e édition, Paris, 1848.
- "*Exposition abrégée du système phalanstérien de Fourier.*" Paris, 1845. "*Exposition abrégée du système phalanstérien de Ch. Fourier suivi d'études sur quelques problèmes fondamentaux de la destinée sociale.*" 3^e édition, 1872.
- "*La dernière guerre et la paix définitive de l'Europe.*" Bruxelles, 1850.
- "*Manifeste de l'école sociétaire fondée par Fourier, ou bases de la politique positive.*" 1841.
- "*De la politique générale et du rôle de la France en Europe, suivi d'une appréciation de la marche du gouvernement depuis juillet, 1830.*" Paris, 1840.
- "*De la politique nouvelle convenant aux intérêts actuels de la société et des conditions de développement par le publicité.*" 1843.
- "*Principes du socialisme. Manifeste de la démocratie au XIX siècle. Suivi de Procès de la Démocratie pacifique.*" Paris, 1847.
- "*Le socialisme devant le vieux monde, ou le vivant devant les morts, suivi de Jésus-Christ devant les conseils de guerre par Victor Meunier.*" Paris, 1849.

- "*La solution, ou le gouvernement direct du peuple.*" Paris, 1851.
 "De la souveraineté et de la régence." Paris, 1842.
 "Au Texas." (École sociétaire, année XXIII.) Paris, 1854.
 "Théorie du droit de propriété et du droit au travail." 3 édition. Paris, 1848.
 "Théorie de l'éducation naturelle et attrayante." Paris, 1845.

GERMANY.

Marburg.—Dr. Carl Bergbohm was appointed in 1893 Ordinary Professor of Public and International Law and the Philosophy of Law at the University of Marburg. He was born in Riga, Russia, and attended the Municipal Gymnasium of that city, 1862-67. Entering, in 1867, the University of Dorpat, he devoted himself for two years mainly to mathematics and then turned his attention to jurisprudence and political science. He secured, in 1874, the degree of *candidatus juris*, and spent the years 1875 and 1876 in traveling in Germany and Austria. In the latter year he became *magister juris*, and privat dozent at the University of Dorpat. The following year he was made salaried docent (professor adjunct). Later, 1880-81, he spent two years in Western Europe, while in 1884, he became *doctor juris*, and professor *ad interim* at Dorpat, and a year later secured the title of Russian Councillor of State. In 1893 he was called as Extraordinary Professor to Marburg, where his promotion to Ordinary Professor soon followed.

Professor Bergbohm is an associate of the Institut de droit international, a member of the Gelehrter Estnischen Gesellschaft in Dorpat, and of the American Academy of Political and Social Science. His published works include:

- "*Staatsverträge und Gesetze als Quellen des Völkerrechts.*" Pp. 110. Dorpat, 1876. Leipzig, 1877.
 "*Die bewaffnete Neutralität 1780-1783, eine Entwickelungsphase des Völkerrechts in Seekriegen.*" Pp. 290. Berlin, 1884.
 German edition of F. v. Marten's "*International Law.*" Berlin. 2 vols., 1883 and 1886.
 "*Jurisprudenz und Rechtsphilosophie.*" I Band. "*Das Naturrecht der Gegenwart.*" Pp. 566. Leipzig, 1892.

Münster.—Dr. Magnus Biermer was appointed October, 1893, Extraordinary Professor of the Political Sciences at the Academy of Münster, in Westphalia. He was born at Berne, Switzerland, November, 22, 1861, and received his early education in the schools of Zürich and the gymnasium of Breslau. He entered the University of Breslau, devoting himself mainly to legal studies, which he afterward pursued at Munich (1883), Berlin (1884) and Göttingen (1885). In 1887 he became Doctor of Laws at the University of Jena. After completing his legal

studies he devoted himself to economic studies, being for two years member of the Seminaries of Professors Schmoller, Wagner and Meitzen in Berlin, and for further two years a member of those of Professors Nasse, Gothein and Dietzel in Bonn. In the summer semester, 1891, he was appointed by the ministry docent at the Technical High School at Aix-la-Chapelle. In the fall of the same year he became Syndic of the Chamber of Commerce at Münster, a post which he still holds. Professor Biermer's publications include:

- "*Ueber Frist und Verjährung.*" Berlin, 1877.
- "*Ueber die Organisation und Aufgaben der Handelskammer.*" Bonn, 1890.
- "*Die preussische Steuerrreform in Staat und Gemeinde.*" Münster, 1892.
- "*Die gesetzliche Regelung der Abzahlungsgeschäfte.*" Münster, 1892.
- "*Die gleitende Lohnskala.*" Conrad's Handwörterbuch, vol. iv.
- "*Jahresbericht der Handelskammer f. d. Reg. Bezirk.*" Münster, 1891.
- Ibid.* for 1892.

RUSSIA.

Dorpat.—Mr. Wladimir Hrabar was appointed July 1, 1893, Docent in International Law at the University of Dorpat. He was born January 22, 1865, at Vienna, and received his early education at gymnasium in Eperjes (Hungary) and Tegorjewsk (Russia). After four years at the Collège Paul Galagane at Kiew, he studied law, 1884-88, at the University of Moscow, where he acquired the degree of *candidatus juris* (magistrandus) and received a Faculty prize for an essay upon international rivers. The year 1888-89 he spent at Paris, where he attended several courses at the Sorbonne and the École de droit. In 1890 he was connected with the Commercial Court at Moscow, and in 1891 became an instructor at the Institut Constantin at Moscow. His inaugural lecture on "War and International Law," has been published in the *Acta et commentationes Academiae Dorpatensis*, 1893, No. 4.

St. Petersburg.—Dr. Nicolas Karychew was appointed September, 1893, Professor of Statistics at the Imperial Lyceum of St. Petersburg. Professor Karychew was born December 6, 1855, in the district of Alexandrowsk, government Jekaterinoslaw, in southern Russia. Educated in the classical gymnasium of Charkow, he afterward pursued legal studies, 1874-78, at the University of Moscow, where in the latter year he received the degree of *candidatus juris*. From 1881-1885 he was Docent of Political Economy and Statistics at the Forestry Institute of St. Petersburg. During this time (1883-84) he made a trip through

Western Europe and pursued scientific studies in Italy, Austria, Switzerland and Holland, but specially with Professors de Laveleye at Liège, Helferich at Munich and Hanssen at Göttingen. In 1885 he became master of Political Economy and Statistics, and in 1887 docent of these subjects at the University of Moscow. Four years later he was Extraordinary Professor at Dorpat, while in 1892 he acquired the degree of doctor and became Ordinary Professor. Professor Karychew is Councillor of State, a contributor to numerous scientific periodicals, and a member of the Juridical Society of Moscow and the Historical Society of St. Petersburg. Besides his contributions to periodicals Professor Karychew has published a number of works of which we give the titles in English translation:

- "*Perpetual Leases of Land in Eastern Europe.*" St. Petersburg, 1885. Pp. iii, 330 and lxxii.
"*Atlas of Forestry Statistics.*" St. Petersburg, 1885.
"*The Tenancy of the Peasants in Russia.*" Dorpat, 1892. Pp. xix, 402 and lxviii with atlas.
"*Economic Studies.*" Moscow, 1st ed. 1888; 2d, 1891; 3d, 1893. Pp. 84.

BOOK DEPARTMENT.

REVIEWS.

Massachusetts, Its Historians and its History: An Object Lesson.
By CHARLES FRANCIS ADAMS. Pp. 110. Boston: Houghton,
Mifflin & Co. 1893.

The drama of modern history as Mr. Adams sees it, consists in the "Emancipation from Superstition and Caste, with its two underlying principles of Religious Toleration and Equality before the Law." "So far as Equality before the Law is concerned—personal, civil liberty—the record of no community seems to me more creditable, more consistent, nor, indeed, more important, than that of the community composing the Commonwealth of Massachusetts." Always in the van in the struggle for civil liberty, as respects religious toleration, Massachusetts has made for herself a far different record, a record "in degree only less discreditable than that of Spain In Spain it was the dungeon, the rack and the fagot; in Massachusetts it was banishment, the whip and the gibbet. In neither case can the records be obliterated. Between them it is only a question of degree,—one may in color be a dark drab, while the other is unmistakably a jetty black."

It is this oft-repeated comparison of Massachusetts and Spain as champions of religious intolerance which constitutes the most striking feature of Mr. Adams's book. His criticism of the historians is that they have been so biased by a kind of ancestor-worship, or "filio-pietism," that their record is untrustworthy, and for the most part needs to be rewritten from the beginning. So far has this "filio-pietistic" spirit been carried that what is branded as infamous in Spain, is presented as not only necessary but beneficent in Massachusetts. The historian of Massachusetts, Mr. Adams insists, should divest himself of all filial and patriotic bias, and apply the same canons of criticism to Massachusetts as to England and Spain. Massachusetts history naturally divides itself into "four distinct periods: (1) the period of settlement, extending from 1620 to 1637; (2) the theological, or glacial period, extending from 1637 to 1760; (3) the period of political activity and organization, extending from

1760 to 1788; and (4) finally, the scientific, or florescent period, extending from 1788 to 1865, at first slow, then rapid in its movement."

At the present day there will be no dispute with Mr. Adams as to the spirit in which Massachusetts history should be written; but a careful reading will hardly find that spirit in all parts of this book, much of which seems an attempt to justify analogies not less strained than striking. It is no new discovery that the Puritans were intolerant, nor has the treatment which that topic has received from recent historical writers been characterized by "filio-pietism." But to place the intolerance of the fathers of Massachusetts on the same plane with that of Philip II. is by no means historically justified. So far as this intolerance grew out of the same religious bigotry, it deserves the same condemnation. But in Massachusetts the intolerance arose hardly more from religious than from political causes, which were non-existent in the European countries, and these political causes are as much slighted by Mr. Adams as Puritan bigotry has been by the writers whom he is criticising. This is seen in his reference to the Robert Child petitioners.

In Jonathan Edwards Mr. Adams finds a figure that can be worked into his picture effectively, but this is done only by distorting certain features till the likeness becomes almost a caricature. While one phase of his thought is presented in great detail, the other equally characteristic one receives no attention. The two themes of Edwards' preaching were the divine justice and the divine *love*. Almost side by side with the horrible descriptions of the hereafter, with which Mr. Adams fills his pages, are passages of the most winning tenderness. To say that the God whom Edwards preached "was a horrible fetish, a demon of injustice, vengeance and wrath; and of a cruelty of disposition at once infinite and insatiable," gives an utterly perverted view of this great preacher. The power which Edwards exercised over his generation was not that of a mere terrorist.

The second period of Massachusetts history Mr. Adams characterizes as the "theological or glacial," and forthwith the "theological glacier," which settled down upon Massachusetts with the passing away of the first generation of leaders, is made the cause of all the sterility which marks the period. This causal relation can be asserted only when it is proved that other causes were not operative at the same time and contributing to the same result. To call attention to the fact that this period "was in the mother country a fruitful season, for it began with Milton and closed with Johnson," does not prove that it would have been equally fruitful in Massachusetts, but for the presence of the "glacier." When Mr. Adams comes to consider art, he recognizes that the environment was by no means favorable to

its development. "Unquestionably the material and moral circumstances of early New England—a plain people struggling for existence in a poor wilderness—were not favorable to any development of the art side of nature. Their lives were to the last degree matter of fact, realistic, hard." Is this the kind of soil from which "the poem, the essay, the work of fancy and fiction" naturally spring?

This little book will serve an excellent purpose in calling attention to the "personal equation" of which the student must take account in examining the work of the earlier Massachusetts historians. It is an excellent antidote for "filio-pietism." Yet throughout there is apparent the spirit of the advocate rather than of the historian. The argument of the book seems to be keyed up to analogies and characterizations which are far more striking than just. Had Massachusetts history been written only as it is here outlined, there would be hardly less need for iconoclastic historians than Mr. Adams finds to-day.

GEORGE H. HAYNES.

The Distribution of Wealth. By JOHN R. COMMONS. Pp. 258.
New York and London: Macmillan & Co. 1893.

It is difficult to see why this book should be called the "Distribution" of wealth any more than its production or consumption. It is in fact a succinct treatise on the general principles of political economy and would deserve to be so called much more than do most works that bear this title, since these usually quite neglect the "political" aspect. On the contrary it is the special merit of this work that it gives full prominence to this important side of the subject. Instead of treating industry as something wholly self-regulating, it shows that the laws of trade constantly operate under the overshadowing power of law and the State. "There are in society two lines of economic activity, the voluntary activity of individuals and associations, and the compulsory activity of government. The first is the field of free competition and self-interest; the one hitherto solely treated by the English economists. The second is the field of coercion—of force." He does not mince this aspect of the case simply because the idea of coercion is somewhat distasteful to those who boast of being freemen, but shows that, however mildly and imperceptibly law may operate, it is at bottom coercive; not only so, but the natural economic activities of society could not go on unless this forcible arm of the law were constantly stretched out to protect them. Those whose habit it is to inveigh against the action of government are the very ones who owe most to it, because they are the holders of franchises which the law protects them in.

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Professor Commons' economic discussions, though technical, are broad, and will be appreciated by professional economists, but not, I fear, by the general reader. They display great learning and an intimate acquaintance with the latest and best authorities. He throws a new light upon the land question by showing that the fundamental idea of land in production and distribution is that of furnishing room and situation. The prime requisite to all business is opportunity, and a place to operate is the first and most essential opportunity. Elaborating this idea, he goes on to show that this is the central truth involved in monopoly. Monopoly is simply exceptional opportunity. It frequently becomes exclusive, and may thus amount to a menace to society. At the same time monopolies are, to use the author's own words, "the greatest economic inventions the world has ever known."

Very important in connection with the influence of the State is his treatment of rights, and it is specially to be noticed that among these he includes the right of the laborer to employment. His view is that the notion of rights is capable of expansion, and new conditions of society give rise to new rights. Formerly the laborer had the right to be fed and clothed. Events have taken this away, and unless his right to employment is recognized he becomes far worse than a slave.

Relative to the economic meaning of taxation the view is presented that it simply represents the State's share in the joint ownership of all property. To ascertain that share it is only necessary to capitalize the taxes, and the real value of the property is its market value plus that sum. Professor Commons recognizes the social or prohibitive element in certain forms of taxation. "Taxes are levied for other purposes besides the service of government. They are often levied to protect or discourage certain industries or practices; also to affect the distribution of wealth, either to centralize it, as in the middle ages, or to diffuse it, as in modern democratic communities." However liable this may be to abuse, it is still the most important principle of political economy, since it is scientific legislation in the true sense of directing the forces of society into channels of social advantage.

The discussion of the law of diminishing returns occupies more than half the book and is an exhaustive analysis of the subject. The errors and oversights of previous writers are pointed out, and it is shown why their theoretical conclusions have so often been at variance with the facts. It is upon this law that Malthusianism primarily rests, and the historical refutation of Malthusianism demanded a thorough reëxamination of its basis. Professor Commons has done this and discovered that of the four possible standpoints from which the law of diminishing returns may and should be viewed there is only one that has been

adequately recognized by political economists. These four standpoints are as follows:

"1. The capital and labor of an entire industry throughout a long period of industrial development.

"2. The capital and labor of an entire industry at a given stage in the development of skill and knowledge.

"3. The capital and labor of a single enterprise at a given stage of industrial progress, without reference to the area of ground occupied.

"4. The capital and labor invested on a given area of ground."

It is only the last of these four points of view that is habitually taken, while the almost universal fact of the rapid development, change and progress in the knowledge, skill, method and nature of industrial life and activity is practically ignored. This has been largely due to the conservative tendency to cling to agriculture as the chief source of illustration. While, as the author shows, there has been great progress in agriculture and is likely to be still more rapid development here as science comes more and more to be applied to it, it is chiefly in the mechanical arts that the most important advances have thus far been made, so that while the principle is the same the difference of degree is so great as to require the application of a different set of canons to manufactures from those that can be applied to agriculture. "Therefore," he says, "looking at it from the standpoint of the capital and labor invested in a single enterprise, and having in view questions of production and not of distribution, we are justified in saying that in agriculture the law of diminishing returns prevails, but in manufactures the law is one of increasing returns."

Professor Commons' analysis of profits is especially enlightening. He divides them into three classes: Necessary profits, personal or temporary profits, and permanent or monopoly profits. It is the first two of these classes that have been in the minds of most writers thus far, while the third has chiefly escaped notice. It is this, however, that he shows to be the chief source of colossal fortunes. It belongs peculiarly to the modern forms of industry, and was little known in earlier periods. Again, conservatism and the too strict following of the old classics without noting that *tempora mutantur* have thrown the economic world off the safe track of discussion and out of harmony with fact. This subject is carefully considered and illustrated by numerous diagrams. It cannot be too strongly commended to the reader. Only some of the general results can be mentioned here. After pointing out the great changes that have taken place in the industrial world he says: "The heads of industries are no longer the independent Napoleons of finance; they find their sphere as high-salaried managers and legal advisers, while the successors of the

entrepreneurs proper, the original organizers and promoters of enterprises, are simply the commonplace, idle recipients of permanent profits and the mildly fluctuating temporary profits." The keynote is struck when he says that "the so-called conflict between capital and labor is at bottom a conflict between capital and labor on the one hand, and the owners of opportunities on the other." And he further says: "A wise public policy will encourage to the utmost the development and rewards of personal abilities in the organizers and promoters of business. But the case becomes entirely different when temporary profits have become transformed into permanent monopolies. Now instead of the profits being due to the powerful exertions and abilities of the captains of industry, they are due to certain fixed social relations and rights. The recipients of these incomes may with perfect security become idlers and drones. They abdicate their functions as entrepreneurs into the hands of salaried chiefs and advisers. They are no longer performing the services to society which were performed by their ancestors or predecessors, who organized and developed the business to which they have succeeded."

His recommendations with regard to the proper policy for society to pursue in view of the condition of things into which it is drifting should also have weight with those who are influential in public affairs. "All new economies, new inventions, widening of markets, should be encouraged; and the new profits arising therefrom should go wholly to these marginal entrepreneurs as the reward of their enterprise. But society might care for the permanent profits in entirely different ways without injury to industry. It might appropriate them through taxation, as, for example, taxes on land values, franchises and inheritances, but in any case sufficient margin should be allowed for the wide play and scope of the pure entrepreneur's profits. . . . Tax reform should seek to remove all burdens from capital and labor and impose them on monopolies. Public policy should leave capital and labor and business ability free and untrammeled, but endeavor to widen and enlarge the opportunities for their employment."

As already remarked, this work does not deal exclusively with distribution, but is much wider in its scope. It is calculated rather to prepare the way for one that shall be thus limited. It is to be hoped that the author contemplates such a work. He has shown himself peculiarly adapted to perform this service. His admirable candor and straightforwardness coupled with the ability to treat the subject in a scientific way, and especially the courage to utter the conclusions which logic dictates, point to him as the person upon whom this duty naturally devolves. He admits in this work that, as a few other

writers have maintained, there is in this age of science, invention and machinery scarcely any other limit to the power of man to produce wealth than the simple inability of the consumer to obtain it, while no one can deny that vastly more is wanted, nay, needed, than is produced. The spectacle of thousands out of, and seeking, employment is the sufficient answer to the pretension that the world is unwilling to make the effort to supply its wants. The impression widely prevails that through some defect in the social machinery the production of wealth is unduly limited, that the product, such as it is, is misdirected, and that most of the evils of society result from this. What is needed is that a cool, dispassionate, and at the same time scientific analysis of the whole problem be made and its real status be set forth. The problem itself seems to be none other than that of the distribution of wealth.

LESTER F. WARD.

Bankruptcy: A Study in Comparative Legislation. By S. WHITNEY DUNSCOMB, Jr., Ph. D. Pp. ix, 167. Columbia College Studies in History, Economics and Public Law. Vol. II. No. 2. New York, 1893.

This careful comparison of the written laws of Europe and the United States on the subject of bankruptcy is intended chiefly for students and legislators, though the practicing lawyer may consult it to advantage when the European law is in question. The general reflections and observations of the author are accurate and valuable.

There is, on the whole, a great resemblance in the laws of all the countries, arising from the necessities of the subject, without in many instances any borrowing by one code from another, excepting that some of the Latin countries follow the lead of France, somewhat as several of our States look to the initiative of New York in matters of legislation.

One of the most striking differences between all Continental countries on the one hand and England and the United States on the other, is that in the former bankruptcy is treated much more strictly as a fault, and even a crime; which has ceased to be the law in England, and never obtained in the United States. This severity is, we suppose, partly the cause and partly the effect of the social aspects of bankruptcy, which is considered a disgrace in the first-mentioned countries.

In several countries "simple bankruptcy" is punishable as a crime, and this is described by our author (pp. 19, 20) to be where the debtor has been "guilty of serious faults in the conduct of his business, not amounting, however, to actual fraud."

Dr. Dunscomb is not quite accurate in saying (p. 24) that the English law for the punishment of fraudulent debtors (Stat. 32 and 33 Vict., c. 62) embraces the cases corresponding to simple and fraudulent bankruptcy. This law, as its title implies, punishes fraud only, that is, acts done with intent to defraud, of which the jury is to judge, though in some cases it shifts the burden of proof, and requires the debtor to clear himself of the intent if the facts are proved.

The refinement of manners has brought about, as Dr. Dunscomb observes, a constant relaxation of penalties in Europe. This is especially true of England, where, until 1820, a bankrupt who failed to "surrender," that is, to acknowledge the jurisdiction, and submit to be examined, or who did not give up to the commissioners or assignees his books and papers, or who concealed property of the value of £20, was to be punished as a capital felon, without benefit of clergy (Stat. 5 Geo. II, c. 30, 31, modified by Stat. 1 Geo. IV, c. 115). It is hardly necessary to say that Congress, in the first bankrupt law (April 4, 1800, 2 Stats. 19), in copying this section of the English law, mitigated the penalty to imprisonment for from one to ten years. It may, no doubt, be maintained with some plausibility that the laws of our country are now too lenient.

In regard to poor debtors, however, we may properly claim credit for the fact that Congress passed, as early as 1796, and has ever since maintained, statutes which release such debtors, when honest, by a simple process, now universal in this country, wherever any imprisonment for debt still obtains.

While, as we have said, the laws of the several countries, have a strong general resemblance, there are some particulars of the Continental codes, which may be worthy of consideration by our law makers.

In Belgium, Italy and Spain, the courts may grant a suspension of payments to a trader, who can prove that he is probably solvent, and a majority of whose creditors consent. This is sometimes done with us, out of court, but requires the consent of all the creditors. The expediency of such a law may be doubted (pp. 12, 13, 14).

In regard to preferences, the great stumbling block, in so many cases to the just and equal operation of the law, and which has given rise, in this country, to a great deal of litigation, the knot is cut, in many countries, by dating the bankruptcy back to the proved date of the suspension of payments; but there is danger, in such cases, of avoiding honest transactions. In view of this, many codes provide in much detail, what acts done within a certain period before the declared bankruptcy may be set aside. "Speaking very generally," says our author, "we may say that the acts which may be annulled in the

interest of the estate are those done in bad faith, though for a valuable consideration, those done for no valuable consideration, although in a few cases the presumption of bad faith raised against gratuitous acts is allowed to be rebutted, and finally those of an equivocal character that are presumed to have been done to favor certain creditors to the prejudice of others, such as the payment of a debt before it is due or in an unusual manner, or the granting of a security for a debt previously contracted."

This does not differ, in principle, from the law which obtains with us (wherever we have bankrupt laws), excepting that the presumptions, above mentioned, are, we suppose, conclusive and do not admit of rebuttal. (See on this general head, pp. 40 to 51.)

In many countries it has been found useful to provide some mode for the oversight and regulation of the proceedings by or on behalf of the creditors, in order to hasten the winding up and to advise the syndic (assignee or trustee) in the settlement of the estate. In England, for instance, there may be a committee of creditors, but if none is chosen, the Board of Trade is required to perform the same duties. Similar provision for a committee is found in the laws of Norway, Denmark, Hungary, Austria, Italy, etc. (pp. 57 to 59.)

The abstract of the laws of the United States is necessarily somewhat condensed, because there is at present no general statute binding throughout the country. An abstract is given of our last bankrupt law, and a summary of the features common to the laws of those States which have a bankrupt law. The want of power in the States to make a satisfactory law is well explained. Upon one of the most important of these liabilities, created by unfortunate decisions (against the protest of Chancellor Kent in "Holmes vs. Remsen," 2 John. Ct. 460), that namely which denies to a decree of bankruptcy under a State law the effect of an assignment by the party himself, he remarks (p. 154):

"These difficulties would not arise if the Continental solution of the questions were accepted. According to the Continental theory, the sequestration by the court of the debtor's domicile, is regarded as a judgment transferring all his property to the syndic. This judgment is not *per se* capable of immediate execution outside the territory in which the debtor resides, but according to the general rules of international private law as recognized in Europe, it being shown that such a judgment was rendered in the debtor's domicile, the court of the foreign country appealed to will authorize the judgment to be enforced in its own territory."

JOHN LOWELL.

Boston.

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EARLY RECORDS OF THE TOWN OF PROVIDENCE. 129

The Early Records of the Town of Providence, Vols. I-IV, printed under authority of the City Council of Providence by HORATIO ROGERS, GEORGE MOULTON CARPENTER and EDWARD FIELD. Providence, 1892-93.

The printing in an accurate and scholarly fashion of the records of so important a town as Providence is an event of sufficient prominence to call for a special mention. Of all the New England States, Massachusetts has been the only one to pay any attention to her local records, and this is the first instance outside of that State where a systematic attempt has been made to perpetuate in print this valuable material. This is the more unfortunate in that in consequence of this lack of material the study of New England town life has been confined largely to the evidence which these printed Massachusetts records have furnished. Theories of municipal origin and development have been based on this foundation alone, and have been for this reason incomplete and unsatisfactory. The records of the New Haven and Connecticut towns still remain in manuscript and are unavailable except to the local student and the antiquarian.

Now, however, Rhode Island has given to the public the most important of her local material, the first, second and third books of the town of Providence, in four admirably printed volumes, on heavy paper and in serviceable binding. To the City Council of Providence, who authorized the publishing of the volumes, and to the Record Commissioners, to whose charge the work was entrusted, every praise is due for their public spirit, zeal and efficient management. The thoroughness of the work of the commissioners can best be appreciated from the following statement:

"The following method has been pursued in making this copy: In the first place, a careful copy of the original was made under the careful direction of the commissioners. They then personally compared this copy, letter by letter, with the original, and, at the same time, with the transcript of 1800, for the double purpose of assisting in the interpretation of doubtful words and also of supplying letters or words, which are wanting or illegible in the original. The copy thus produced being sent to the printer, the commissioners have personally read all the proofs, comparing every letter therein with the original and also with the copy previously prepared by them, and, in every case, receiving and reading revises, until a proof sheet was received in which such vigilance as they were able to exercise could detect no error."

In the subject-matter thus carefully printed, the student intimate with other town records will notice many familiar topics, furnishing admirable comparative material, and at the same time some less

familiar, indicating the peculiar circumstances of the settlement of Providence and the different character of her people. Land-regulation is everywhere prominent: its division, distribution, extension, alienation and exchange. These volumes are full of this agrarian activity, as are all other volumes of New England town records, and yet with the single exception of Eggleston's monograph scarcely any scientific investigation of the land system has been made. It is certainly just as much a subject for scholarly examination as are the political conditions, the town meetings and the like.

Providence shows a custom, rare in the Colonies, of a constant interchange of land. Land in the plain was exchanged on equal terms with land at the upper end of the valley. A share of meadow was exchanged for two ponds and a parcel of hill-land. Two shares of meadow were exchanged for ten acres of upland. Sometimes two persons exchanged land with each other. This at first was done without charge at the request of the landowner under the supervision of the town, but later a payment was made called "change money." Such a system must have greatly complicated the land records, for it would seem as if the greater portion of the inhabitants exercised this privilege of exchange. The records offer excellent opportunities also for the study of the "purchase right," the powers and qualifications of proprietors, the practice of commoning and its limitations, the election of officers, the contents of wills, the forms of manumissions, deeds, conveyances, the value of fees, rents, etc. An occasional record of published banns may be noticed, and a more frequent record of civil marriage. Even after the union (1647) Providence occasionally called her "orders" "laws," and we get important glimpses of her relation to the central government in the careful watch which she kept upon expenditures. (Cf. iii, pp. 164-165, 240.) Providence started, as did Guilford, Milford, Southampton and Branford, as an independent self-centred community, a town-state.

It is a wish, though without promise of fulfillment, that other Rhode Island and Connecticut towns would follow the example which Providence has set. We can hardly expect small country towns to appropriate one thousand dollars, or even a part of this sum, for such a purpose, but large cities, such as Hartford and New Haven, can well afford to do it, and it is a disgrace to them that they do not. Braintree, Dorchester, Salem, Groton, Boston and now Providence have set them an example which they would do well to follow.

CHARLES M. ANDREWS.

The Labor Movement. By L. T. HOBHOUSE, M. A. Pp. 98. London: T. Fisher Unwin. New York: G. P. Putnam's Sons. 1893.

Kritik des Socialismus. Von LUDWIG FELIX. Pp. 117. Leipzig: Duncker & Humblot. 1893.

The purpose of Mr. Hobhouse's book is to show the relation between the various tendencies toward the collective control of industry in the interests of consumers, and the extent to which these tendencies may be regarded as the means of working out our social ideals. His conclusions are: (1) that trades-unionism, co-operative organizations of various forms, and municipal and State socialism are complementary and not in any sense antagonistic movements; (2) that they are all aiming at the same goal, namely, the collective control of industry in the interests of consumers, and in thus working are not only promoting the best interests of society in a general way, but are going to the very roots of the social question. His argument in brief is as follows: Our present industrial system is defective in three important particulars: (1) supply does not readily adjust itself to demand owing to the imperfect character of the means for the anticipation of demand by producers; (2) in the regulation of wages the law of supply and demand operates so slowly that wage-receivers frequently suffer from starvation wages for long periods of time, with the result that the standard of life and the efficiency of whole generations of workers are frequently permanently lowered; (3) the social surplus—total values minus total costs—now goes to the owners of natural advantages—in the form of rent and monopoly gains—and to those who have inherited capital. The organization of co-operative societies in both productive and distributive industries aims at bringing producers and consumers together, and thus constitutes a remedy for the first mentioned defect. The municipalization of certain industries also tends toward the same result. Trades-unionism is the remedy for the second evil. "It regulates the conditions of employment in the interests of all the workers. It puts the manual laborer on an equality with his employer in arranging terms, and accordingly it raises wages and diminishes hours of work. It effects general economy by eliminating incapable employers, and by raising the standard of comfort among workmen it is not only a direct benefit to them, but, by making them more efficient agents in production promotes the general health of the national industry" (p. 27). State and municipal socialism aim at the equitable distribution of the social surplus. The various forms of the "Labor Movement" according to Mr. Hobhouse, would deal far better with the main elements in the distribution of the national dividend than the forces of private enterprise and free competition. "The remuneration of the workers (of every kind) being fixed by the trades-unions in agreement

with the public at large, the surplus remaining would pass to the community for common purposes; the profits of enterprise going to communities of consumers, whether in the form of co-operative societies, municipal bodies, or the State; while rent and interest would go directly to the municipality or the nation. Thus each branch of the "Labor Movement" has its appropriate part of the general problem to work out, and united they give hope of a complete solution" (p. 79).

The mere statement of Mr. Hobhouse's propositions suggests the fundamental weakness of his book. He has idealized the reform movements of the present day, and expects from them much more than sound judgment based upon actual facts warrants. Even with the assistance of the specious arguments of which the book is full, it requires a vivid imagination to see how co-operative organizations of the sort common at the present day will ever solve the problem of over-production. Of the shortcomings of trades-unionism and the weakness and impracticability of socialism, Mr. Hobhouse seems unconscious. Of course, we all may share with him the hope that out of the present agitation in favor of reform some more or less adequate solution of our social problems will evolve, but it will require more and better evidence than is contained in this book to convince most people that we have yet hit upon the precise means by which this end is to be attained.

Mr. Felix's monograph is a good antidote to the book just reviewed. It constitutes the concluding portion of the fourth and last volume of his work on "*Entwickelungsgeschichte des Eigentums*." Owing to a necessary delay in the publication of this volume, and to a desire to give a wider circulation to his criticisms on socialism than his larger work is liable to secure, this part is given to the public separately in the form of a moderate sized pamphlet. The arguments and the conclusions contained in it may be regarded as the result chiefly of the author's investigations into the history of the development of property, and they are widely different from those to which Marx and others were led by precisely similar investigations.

Mr. Felix finds the socialists guilty of bad logic and of bad political economy, and the victims of imperfect knowledge and the misinterpretation of history. He admits at the outset that there is a vast amount of poverty and suffering in the world for which the immediate victims are not personally responsible, but he claims that from such facts the conclusion cannot be legitimately drawn that our present industrial system is fundamentally bad and wrong. In drawing such a conclusion he holds that the socialists overlook three great facts, namely: (1) that before this era of capitalistic production the condition of the masses was much worse than it is at the present day; (2) that changes in the

social and industrial environment, even for the better, necessarily involves suffering for individuals, and oftentimes for whole classes; and (3) that the best institutions are subject to abuse, and are always abused by imperfect men. The considerations employed in the establishment of these facts are followed by a critical examination of the charges brought by the socialists against our present industrial system and of the economic doctrines which they hold. Marx's theory of value, upon which most of their reasoning rests, is shown to lack both the support of facts and of sound reasoning. Their objections to interest, rent and profits fall with the theory upon which they are chiefly based, but are still more completely undermined in the sections treating of the unearned increment, the separation of the laborer from his tools, Marx's theory of surplus value, and the justification of profits. In the last chapter of the monograph Mr. Felix attacks the constructive side of socialism. The brief reign of socialism in France during the revolution is examined, and the query is raised whether the limitless and fearful despotism of that period would not be the necessary concomitant of any attempt to realize the ideals of socialists. Private property in land and the instruments of production is vigorously defended in this chapter as the necessary condition for the development of personality and the realization of freedom. "*Ohne Freiheit kein Eigentum, so ohne Eigentum keine Freiheit*" is the proposition. The danger to the family and consequently to morals and all healthy social development involved in socialism, is ably demonstrated in the concluding portions of this book.

The critical work done by Mr. Felix is on the whole quite satisfactory. He makes out a strong case against socialism, and does it in moderate space and with vigor. Most economists, however, will take exceptions to much that he says on the subjects of rent, interest and profits. Few will be willing to go as far as he does in his attempts to argue the unearned increment out of existence, and fewer still will be satisfied with his feeble attempts to bolster up the productivity theory of interest. Much that he says about profits is good, but he scarcely touches the main features of the problem.

WM. A. SCOTT.

Staatsschuldentilgung und Staatsbankerott. By DR. ALOIS KÖRNER.

Pp. 104. Vienna, 1893.

La Grèce Économique et Financière en 1893. By DEM. GEORGIADES.

Pp. 144. Paris, 1893.

These two brochures might seem from their respective titles to be but slightly related. The first, however, is only the theoretic

counterpart of the practical proposals made in the second. Dr. Körner attempts to complete his popularized treatment of public credit, contained in his earlier tractate upon the conversion of public debts, by this consideration of their legal extinction and by the added critique upon state bankruptcy. It would be hypercritical to object that in an essay designed for the non-specialized public, important omissions occur in the history of the financial theory of debt extinction. But even with this admission, it must be said that the presentation of the subject is made in part without any sense of proportion. For example, in the exposition of Price's Sinking Fund Theory, the destructive criticism of Ricardo is not mentioned. There is one more serious fault to be found with this study. Designed, as it purports to be, for popular reading and apprehension, the danger of unguarded statements is very great. Thus the easy approval of Hume's dictum denying the destructibility of public credit for any long period even in case of repudiation is liable to gross misinterpretation by the lay reader.

M. Georgiadès in summing up the financial condition of Greece comes to the conclusion that the further payment of the full interest upon the State indebtedness is no longer possible, and that some understanding with the State's creditors looking toward a compromise is necessary. Such a conclusion seems from his presentation of the facts inevitable, and recent parliamentary action has virtually sanctioned this policy. The facts that about one-half of current revenue is absorbed in payment of the yearly interest, and that the productiveness of the tax system has reached its limits warrant this dismal acknowledgment on the part of the State. The whole financial and monetary policy of Greece for the past ten years has been so obviously vicious that bankruptcy is but the natural outcome. The tax system hampers industry. Export and import duties further restrict the growth of trade. Inconvertible paper money has brought its inevitable train of evils, raising prices irregularly, disturbing normal distribution, attracting imports and lessening exports. Continued deficits have been met by fresh loans, and the evil day has been postponed only to come with more crushing force when at last it did appear.

W. M. DANIELS.

Die Preisbewegung der Edelmetalle seit 1850 verglichen mit der der anderen Metalle, unter besonderer Berücksichtigung der Produktions- und Konsumtionsverhältnisse, Von Dr. SAMUEL McCUNE LINDSAY. Pp. 219. Jena : Gustav Fischer. 1893.

Social and economic problems are dinned into our ears on every side in these days, and crude solutions are pressed upon a long-suffering

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humanity which has not always learned that it was in need of bread. Professional economists, who pride themselves on their "science," have fallen into the same mode of thought. They are forever on the lookout for "solutions," unmindful of the fact that half the problems which they discuss have never been correctly stated. With them the question which any new work suggests is what does it propose, and forthwith they proceed to discuss conclusions with but too little regard for the processes by which they are reached. There are obvious reasons for such a tendency, and we are all of us only too prone to follow it. But in judging such a work as that under consideration it leaves us in the lurch.

Dr. Lindsay writes without tendencies; his effort is to give us an objective account of the movement of prices of the precious and other metals. In discussing the causes of such movement he presents his arguments in a manner which permits the reader to judge for himself. With a self-control, which excites our admiration, he resists the glittering temptation to wander far astray into the field of monetary controversy, with which his subject has such intimate relations.

What are the standards of criticism to be applied to such a work? It is obvious that we cannot quarrel with it for belonging to a different class from the majority of new works which come under our notice, but must consider whether it is good of its own class. We must ask ourselves (1) Does it cover all the ground which the subject demands? (2) Does it bring together new or hitherto inaccessible materials? (3) Does it group familiar and new material in such a way as to throw greater light upon the subject? These are the questions which properly apply to a work, which like Dr. Lindsay's, collects the material for a judgment, instead of itself pronouncing a conclusion. Judged by them Dr. Lindsay's work is a very satisfactory and creditable performance. The deliberate, painstaking and conscientious methods of German scholarship could have found no more accurate exponent than this American disciple.

After a brief discussion of the economic importance of price movements, the author proceeds to a discussion of the methods of price statistics. The problem which confronts him is the proper method of comparing the prices of a group of articles at different periods. In short he has in technical language the problem of a proper index number. A brief but lucid discussion of the practice and proposals of several writers leads to what seems to us an obvious conclusion that an average of indices in which each article has weight according to its consumption best accords with theoretical requirements.

At this point we seem to be deflected from the line of the argument. A new sub-division of the work treats of the production and

consumption of the metals. Gold and silver occupy a leading place, and the method follows the type familiar in the well-known works of Suess. The official publications of the United States Government lend a confirmation to what is in the main a skillful condensation of Suess' work. In regard to iron, steel, coal, copper and lead the same method is followed, and here the author has sifted and arranged a mass of evidence, which at the same time guarantees the correctness of his conclusions and bears most striking witness to his industry.

All this material is perhaps a necessary interruption of the price discussion. In a third division of the work we return to prices. For each of the metals the prices in London, Hamburg and New York are carefully collated and appropriate indices given. The American prices are derived from the Statistical Abstract, and are, I believe, for the first time in German economic literature brought into direct connection with those of Europe. In concluding this division of his work the author makes an important comparison by groups of four price series, Sauerbeck's and the *Economist* English prices, the Hamburg prices and the American prices. The comparison is made by the methods of simple and weighted average.

The fall in price is clearly proven. It may not have required the author's searching analysis to convince many of the fact, but the most unwilling could not resist the conclusion if he were to follow the exposition. We take it that the author is chiefly concerned in establishing the fact of lower prices by methods which no criticism could undermine, which no cavil could shake. Hence we have given to this feature of the work the leading place in our consideration.

But so minute an inquiry could not fail to point out some at least of the causes of the movement. The author goes no further than his material allows him. Changes in production and transportation are inadequate to explain the entire fall of price. It appears probable, therefore, that the standard of value is responsible for the change, but "the inference is not conclusive since we cannot know the number of possible causes, nor be certain that the standard of value is the sole cause."

The caution implied in the last quotation appears to us carried to an extreme. It does not prevent the author from briefly discussing proposed changes in the standard of value. Such are the tabular standard and international bimetallism. But with his consistent moderation he goes no further than to suggest that the solution will probably be found in international regulation of money matters though the details of such action cannot yet be determined.

ROLAND P. FALKNER.

Agricultural Insurance in Organic Connection with Savings Banks, Land Credit and the Commutation of Debts. By DR. P. MAYET (translated from the German by REV. ARTHUR LLOYD, M. A.). London: Swan, Sonnenschein & Co.

This work, by Dr. Paul Mayet, formerly professor at the University of Tübingen, is written, in the main, from the Japanese standpoint, as will be understood when it is premised that the author has for some years been in the service of the Government of Japan, in which capacity he has materially helped that country to adapt her ways to Western example.

Though the book originally appeared in Japanese, it is fortunate that it has been offered to English-speaking peoples in their own idiom, since the problems which it discusses are unhappily only too universal. In indicating the general scope of Dr. Mayet's work we can afford to ignore the specifically Japanese portions, only saying in passing, that the information, and especially the statistics, collected by the author, possess great value, alike for political economists and for those whose interest in agricultural questions is of a more practical kind. Investigating the condition of Japanese agriculture, Dr. Mayet found everywhere signs that the cultivators of the soil suffered in two ways—in the first place from insufficient protection, or rather no protection at all, from the destructive effects of natural forces, such as flood, storm, hail, frost, and the like, and then from the absence of machinery for the proper organization and distribution of capital. That debt was general and ruin common amongst the farmers followed almost as a matter of course. Accordingly, he proceeded to devise a scheme whereby these defects might be remedied. Though keeping in mind the fact that he was dealing with a country having its own peculiar conditions and traditions, he determined, as far as possible, to place his proposals on a universal basis, so that other lands might benefit by his studies. The scheme which he prepared embraced the three branches: (1) Agricultural Insurance of a very comprehensive kind; (2) Agricultural Savings Banks, and (3) a system of Land Credit. These three institutions he proposes to organize in such a way that they shall be mutually operative and mutually supporting. Insurance he divides into three kinds: crop insurance, cattle insurance and building insurance. Of saving institutions he also proposes three: (1) Parochial Postal Savings Banks; (2) Rural Savings Societies, and (3) Provincial Savings and Land Credit Institutes. As to agricultural credit, he would give Provincial Savings and Land Credit Banks the power to issue debentures under fixed conditions, and finally, in order to place the encumbered farmer on a firm foundation, and give him a fresh start, he proposes to liberate him from his creditors by the help

of Arbitration Boards, which shall determine his liabilities and help him to meet them. It will be seen that the underlying principle of this work is agricultural insurance and credit on a mutual and co-operative basis. The idea is a good one, though not indeed new, either in theory or practice. The chief merit of Dr. Mayet's book is that he theorizes with reference to a concrete case, which he has first thoroughly investigated and mastered. One is struck throughout the book by the readiness—perhaps natural enough—with which the author proposes to apply to Japan the methods and institutions common to Germany, even to the extent of favoring compulsion where the desired results are not otherwise to be attained. It might seem as though Dr. Mayet had been ignorant that other countries have dealt with the same problems, and have discovered and applied expedients of their own, for which a certain success can be claimed. This one-sidedness is the only complaint that we have to find with the contents of the book. For the rest, the work is that of a thoroughgoing and above all of a systematic scholar. On the whole, there is perhaps too much system.

The tedious complexity of classification, dear to the heart of every German economist, is hardly helpful to readers. "Parts" and "chapters" are not sufficient, but we must have "divisions" and "sub-divisions" and "sections" endless. Not only so, but the book, though bearing London as its place of origin, bears evident signs of having been printed either in Germany or Holland, and the typographical result cannot be pleasing either to the American or the English eye and taste.

WILLIAM HARBUTT DAWSON.

Socialism, its Growth and Outcome, by WILLIAM MORRIS and E. BELFORT BAX. Pp. viii., 335. London: Swan, Sonnenchein & Co. New York: Charles Scribner's Sons. 1893.

The book begins with a brief outline of universal history. The whole so presented and manipulated as to show the preparation for and certain triumph of socialism. The purpose of the book is not disguised though the intention of the writers is presumably to be true to facts. Nothing is harder, however, than for a propagandist to argue fairly from history, and our writers have by no means avoided the difficulty. The earlier chapters on ancient history are not clear. This is partly due to the extreme brevity required, and partly to the inherent difficulties of the subject. The conclusion, however, cannot be resisted that the writers are not sufficiently at home in this part of their subject. The note added at the close is an implied confession that they feel this part of their work to be unsatisfactory, but it does little to help it.

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The history of the Middle Ages is suggestive, but strongly biased by an evident and intelligible apologetic purpose. This is especially manifest in Chapter V,—the rough side of the Middle Ages. The advantages of the feudal system having been previously enumerated, an attempt is made in this chapter to prove that the disadvantages were apparent rather than real. While much of truth is stated, the unbiased reader can hardly rest satisfied with the conclusions offered. This glorification of feudalism preparatory to a condemnation of modern society smacks of pettifogging.

The great blemish of the book is the temper in which the writers approach recent history, and the existing social organization. That there is much of truth in this part of the work cannot be denied, but its force is weakened by the frequent epithets, the vein of vituperation, delicate though it be, which betrays at every page a hopeless alienation from the existing social system, a system which, after all, probably has as much in its favor as feudalism. Granting, as we freely do, that the present social equilibrium is unstable and transitional, it still remains true that it is a normal stage of evolution, and that it deserves sympathetic treatment rather than villification.

A brief sketch of the evolution of socialist theory follows, in which bias is again apparent. The perennial mistake is made of stating with approval Marx's theory of value, a mistake we call it because it is as demonstrably untenable as any economic theory ever presented, and still more because it is no way necessary to socialism. It is one of the anomalies of the evolution of socialism that the socialist movement with its vast propelling instinct so easily explained and so easily justified on ethical grounds, should have laid such feverish hold on the murky dialectic of Marx, and made it the centre of a "science," if not of a religion. The book closes with a suggestion of a constitution of socialistic society, which is modestly stated and interesting. The book is one more evidence of the reality and power of the forces behind the socialistic agitation, and of the incoherency of their present expression.

H. H. POWERS.

Politische Geographie der Vereinigten Staaten von Amerika, unter besonderer Berücksichtigung der natürlichen Bedingungen und wirtschaftlichen Verhältnisse. By Dr. FRIEDRICH RATZEL, Professor der Geographie an der Universität zu Leipzig. Zweite Auflage. Pp. 763. München : R. Oldenbourg. 1893.

In Ratzel's "Political Geography of the United States" Germany has brought forth a book worthy to rank with Bryce's work as a

transatlantic view of American civilization. Whereas in the English work the political element is accentuated, in the German the emphasis is laid first on the geographical conditions, and from these as a basis a wide range of questions embracing race, population, politics and culture is ably discussed. Ratzel sees in the United States a new country and a youthful nation filled with the spirit of enterprise, working with the indomitable energy of a people in whom repair still exceeds waste, having conceptions which in their scope reflect the greatness of the territory in which they were born. Our civilization is to him highly instructive, because it means European ideals carried out under peculiarly fortunate circumstances, with no restriction of space or means, and with a minimum of interference and disturbance from outside influences because of the comparative isolation of the United States and its natural leadership among the nations of the Western Hemisphere.

Faithfully to portray this civilization in all its phases, to analyze the factors in it, to establish the laws of their combination and estimate their reciprocal influence,—this is the task which the author set for himself and which he has performed with astonishing completeness and truth. He is in turn geographer, ethnographer, sociologist and political economist, and in whatever character he writes, he is always the scientist. He brings to his work a German integrity of mind, the broad judgment of a man learned in many lines, a familiarity with our history even in its remote and local features, and a critical insight into our national character born of knowledge and sympathy.

The standpoint of the author is essentially that of the geographer. He finds in geographical position, boundaries and area the fundamental elements, the known quantities in the equation of a country's development, and he therefore devotes to these the detailed treatment which their importance would demand. He shows that particularly in the case of the United States the young republic struck its roots deep into the soil of the country, that every extension of its territory meant the planting of a new cornfield, that what it gained politically it held industrially, and that the continued intimate connection of these two factors accounts for the wholesome character of our national growth. Geography in his hands throws some strong side-lights upon questions of historical development, public policy, race intermixture, and social tendencies; so to the student of American history and economics his book offers many profoundly suggestive thoughts.

ELLEN C. SEMPLE.

Louisville, Ky.

The Financial History of Virginia, 1609-1776. By WILLIAM ZEBINA RIPLEY, PH. D. Columbia College Studies in History, Economics and Public Law. Vol. IV, No. 1. Pp. 170. New York: 1893.

This publication, like Douglas' "Financial History of Massachusetts," in the same series,* is a careful collection of material from sources available only to one on the ground. It is an excellent example of the proper line of work for a doctor thesis. A carefully made compilation of the best authenticated facts from the original records is always welcome. It is doubly so in this case because of the importance of Virginia in the financial history of America.

We scarcely expect to find in the early financial history of any of the colonies very much uniformity, or many well established principles. The people, as Dr. Ripley points out, were "too fully occupied in conquering a wilderness to spin fiscal theories." They "wanted simply to support their incipient government in the easiest possible way." It is natural that the early history should consist of a number of disconnected efforts. Fixed habits of financial management were not really formed in colonial times.

The article treats of the different sources of revenue which were direct and indirect taxes, quit-rents and later some few forced loans in the form of paper money, it takes up in connection with each of these the principle objects of expenditure for which they were intended. For a considerable time the government was largely supported by granting officials the use of certain lands. The distinctly royal officials were also partly supported by the revenue received from quit-rents. But these payments were practically abandoned before 1720 although they were theoretically recognized as late as 1755.

The first real tax in Virginia was a poll-tax in 1619. Its object was the support of the officers of the colonial assembly. This tax was continued in 1623 as a commutation for military service. It remained throughout the first century a chief source of revenue. Toward the end of the century it declined in importance and indirect taxes took its place. Called into use again in 1756 by the French and Indian War it yielded, in 1763, a larger revenue than all the other taxes together.

Of the customs duties the most important was the tax on tobacco exported. This tax began as a part of the general colonial policy of England. It came to be one of the mainstays of the colonial treasury. Other duties were the import duty on liquors, and one on slaves and an export duty on hides, together with tonnage dues.

"Local (county) expenditures were invariably met by means of a poll-tax levied upon the male inhabitants of the county," rated by

* See ANNALS, Vol. iii, p. 379, November, 1892.

the justices in county court. Later church tithes were collected in the parish for the support of the minister.

As the early operations of the treasury, here as well as elsewhere in the colonies, were hampered by the poor condition of the currency, the author very correctly adds two chapters to the account of the finances proper on the two subjects, hard money and paper money. In regard to the scarcity of the former it is urged as an important consideration that it was due in part to the personal influence of the early governors, who found it to their interest to encourage the use of tobacco or tobacco notes in place of hard money. But it is not clearly shown how this influence was made effective. I am inclined to think that it added but little to the natural effects of the economic dependence on England and the non-existence of credit. It is shown quite conclusively that there was more coin in circulation in Virginia during the eighteenth century than is generally admitted. But as tobacco was also used as money and was constantly falling in value, payments were made in that, whenever possible. It was a sort of double-standard system, coin and tobacco, in which the ratio was constantly changing as tobacco fell in value.

In the discussion of paper money the author is led into an occasional trifling error by a failure to understand the use of the word "bank" by the colonists to mean, not an institution, but merely a large sum of money.

C. C. PLEHN.

Darwin and Hegel, with other Philosophical Studies. By DAVID G. RITCHIE, M. A. Pp. xv., 285. London: Swan, Sonnenschein & Co.; New York: Macmillan & Co. 1893.

This is a "magazine made" book. The nine scholarly articles comprising its several chapters, "Origin and Validity," "Darwin and Hegel," "What is Reality," "On Plato's Phaedo," "What are Economic Laws," "Locke's Theory of Property," "Contributions to the History of the Social Contract Theory," "On the Conception of Sovereignty,"* and "The Rights of Minorities," have all been published at various times in philosophical or political science journals in England or in this country. The author's vindication for giving such a miscellany of detached studies this title—and it the heading of the second chapter—lies in the fact that "the diverse subjects are looked at from a common point of view;" and that it indicates his

* ANNALS, Vol. i, p. 385, January, 1891.

purpose to set forth the grounds of reconciliation between the "idealist" philosophy, growing up, mainly, out of Kantian criticism, as expounded by Hegelians, and the "materialistic" philosophy resulting from the introduction of the historical and comparative methods into the studies of race ideas and institutions and the influence of the doctrine of evolution and natural selection. From the standpoint of the "Idealist Evolutionist," Mr. Ritchie believes that we shall best be able to consider the concrete problems of politics and ethics, in the solution of which philosophical criticism finds its test and greatest usefulness. It is in the latter regard that the truly profound metaphysical analyses and the close scrutiny of the subtleties of dialectics and definition in the first four chapters of this volume will be found of really great interest and importance to the students of the economic, political and social sciences. Few American students of these sciences, and, we venture to say, few professors, appreciate the fundamental necessity of sound "metaphysical" postulates, as a basis of correct reasoning and construction in their sciences. "Metaphysical," as commonly applied by them to doctrines, is a term of reproach. But those most given to deriding the term, are usually dominated by meta-physical notions, pure and simple, and which are, as Mill long ago pointed out, not only erroneous, but fruitful parents of evil in the transactions of daily life. Thus the perversions in politics and philosophy that have resulted from the "Nature" theories and "Innate Ideas." Mr. Ritchie shows how immediate and practical is the bearing of the most abstract of abstract discussions upon the settlement of current political, social and industrial problems; and he rightly protests against the illegitimate distinction, so constantly made by men of affairs, and by men of "the profession" as well, between the "practical" and the "theoretical" treatment of subjects, always, of course, to the detriment of the latter.

In the essay "What are Economic Laws?" there is an able and lucid exposition of the nature of scientific laws, of the position of economics among the sciences, and of the meaning of "laws" in historical sciences. There are set forth the distinctions, too often forgotten by economic writers, between physical laws and biological laws, the differences between the latter and economic and sociological laws. The content of the term "law," where we have to deal with self-conscious and contriving moral agents as in economic activity, is expounded most convincingly. Mr. Ritchie does not believe that economics as a science has anything whatever to do with laying down moral "precepts" or practical rules; and he protests against the proselytizing propensities of many economists who presume impartially and scientifically to investigate and to expound the laws of

industrial life and institutions. "The protest is necessary, both in the interests of science and in the interests of practical politics. The student of economic science, as such, does not provide social precepts; it is his business to study the phenomena in the same spirit as that in which the physiologist and pathologist study the phenomena of health and disease." The scope and method of economics, as presented here, correspond with the limits and modes of investigation set forth by Professors Keynes, Marshall and Nicholson.

In "Contributions to the History of the Social Contract Theory," the students of political science, and especially those interested in the history of the development of political theories, will find a scholarly essay dealing with this interesting and important phase in the evolution of opinion regarding the nature of society and the State. The notion that society and government arose or had its beginning in a "social contract" played a great part in the revolutionary politics of the seventeenth and eighteenth centuries in England and France; and we have the course of its history traced here. The doctrine as such was first clearly discernible in the mediaeval writers. The Greek Sophists, however, advanced philosophical ideas that anticipated the later developments. The individualism of Epicurus made the contract theory fit in with the philosophy of pleasure. Greek thought, nevertheless, as represented by Plato and Aristotle looked upon society as a "social organism." In the Middle Ages the notion took hold of the political and ecclesiastical writers, the authority for which was found in the Bible and Roman law. Many interesting passages from original authorities are quoted, showing how widely prevalent the doctrine was, not only in philosophical but in practical politics in the seventeenth century. The different phases which the contract theory assumed in the writings and times of Thomas Aquinas, Hooker, Hobbes, Locke, Rousseau and Kant, are dwelt upon at some length.

FRANK I. HERRIOTT.

Philadelphia.

I Primi Due Secoli della Storia di Firenze, Recerche di PASQUALE VILLARI. Vol. I. Firenze: G. C. Sansoni. 1893.

Although during the last decade much has been done by such men as Capponi, Del Lungo and Hartwig toward giving us a clearer insight into the early history of Florence, there still remains so much to be done that this volume of Mr. Villari will be welcomed by all students of Italian history. What we need most is the economic and social history of the city. Burckhardt's work on the "Civilization of the

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"Renaissance" hardly takes us back far enough into the city's history. As the author aptly puts it: "the history of Italian liberty, from the Middle Ages to the time of Charles VIII. (1494), is the history of the Italian cities." The history of these cities is therefore the *sine qua non* to an understanding of the subsequent development of the Italian people. The very first chapter of Mr. Villari's book deals with the origin of the city, a subject which seems to be lost in a confused mass of legends. We are, however, taken as far back as the beginning of the twelfth century. The second chapter treats of the "Origin of the Commune of Florence," and traces the administration of the city during the twelfth century. The remaining four chapters of the book treat of the "First Wars and Reforms of the City," "The Parties and Guilds of Florence," "The Predominance of Florence in Tuscany" and "The Commerce and Polity of the Guilds of Florence." To the economist the last chapter is by far the most interesting. The history of the seven guilds, their marvelous development and continual quarrels, forms one of the most interesting and suggestive periods in Italian history. The author brings out with great clearness the contrast between the flourishing condition of art and commerce, and the gradual decline of the political institutions which ended in the loss of that large measure of civic liberty, so characteristic of the earlier days of the republic. If the succeeding volumes are as full of instruction and interest as these first seven chapters, the work of Mr. Villari will take equal rank with his "Life of Savonarola."

L. S. ROWE.

Philadelphia.

Staatenbund und Bundesstaat, Untersuchungen über die Praxis und das Recht der modernen Bunde, von Dr. J. B. WESTERKAMP. Pp. 549. Leipzig, 1892.

The theory of the composite State and the best method of classifying its various forms ought to be of especial interest to us. Not only is our own government one of the most remarkable examples of its species, but its establishment in 1789 was the beginning of a movement which has spread over a great portion of the civilized world and rendered the composite State the most characteristic product of this century in the field of political organization. Hitherto, however, the speculation upon this topic has taken a variety of invariably hopeless turns. We have forgotten how numerous and diverse are the examples of composite States which this century alone has seen, Prof. Hart being, perhaps, the only one in this country who has given careful attention to the foreign unions. Over a dozen excellent examples

may be found, and at present the area subject to this form of government embraces three times that of all Europe. We have known only two forms of union, that under the Articles of Confederation, and our present Constitution, and have consequently not known these well. Our works in the United States have until very recently, at least, regarded our own Union as the normal federation, and we have given scanty attention to the variations which show themselves in other more recent unions, like those of Switzerland, Canada and especially Germany.

The English have, with the notable exception of Mr. Bryce, too readily accepted this view, Mr. Freeman confining his studies almost exclusively to a class of historical institutions of which we know but little, and which it is safe to say exercised no appreciable influence upon the renaissance of federal government in this century. In Germany, where a great deal of attention has been given, since the formation of the new empire, to the theory of the composite state, there has been a pretty complete failure to study other institutions than their own. The attempt, at times almost ludicrous, to generalize from a single highly autochthonous system, reaches its climax, in definitions of a federation which quite exclude our own form of government.

A comparative study of the best modern examples of composite States, Dr. Westerkamp rightly regards as a necessary preliminary to a correct definition of the terms confederation and federation. In accordance with this plan he has taken for comparison the following unions: The United Netherlands, the United States under the Articles of Confederation, the Swiss Confederation and the German Union of 1815, the United States under its present Constitution, Switzerland since 1848, the United States of Mexico, the Argentine Republic, Canada and the German Empire. Obviously there is an ample field of study here without considering the Greek unions which the author does well to neglect as irrelevant. Professor Westerkamp does not deceive himself as to the true character of all successful political organizations. "Forms of government serve human needs; they are to be understood only in the light of the conditions which called them forth, they are to be judged according to their effects upon the security, power and prosperity of the nation. Juristic logic and dialectic are means for the interpretation of constitution and laws, they must not, however, degenerate into fruitless or hurtful scholasticism, dealing with false or meaningless categories, they must not be abused for the purpose of obscuring the clear significance of constitution or laws. The Constitution of the United States of America, which must inevitably form the centre of investigations of modern unions was the result of mutual deference and concession." "This

constitution," the author continues, "will not stand the application of narrow-minded juristic logic which neglects the exigencies of political life and the necessity of numerous compromises." This is directed especially toward the methods represented by Laband, whose knowledge of, and interest in, comparative constitutional law is of the slightest. The conceptions of federation and confederation Dr. Westerkamp prophesies "must ultimately be brought down in Germany from that aerial region where ideas dwell together in harmony to the region of reality, '*wo die Sachen hart sich stossen.*'"

The descriptions given of the various constitutions show that the author has not contented himself with the study of texts, but has made a careful investigation of the actual workings of the governmental machinery. He has done this by a prolonged sojourn in the United States, Switzerland, Holland and Germany. The results of this painstaking method are clearly to be seen in his excellent comparison in their salient points of the leading characteristics of the various composite States. He takes up in order, the origin, competence, organization, action and guarantees of the Federal Government in each of the countries mentioned. By an occasional judicious *excursus* upon some interesting point the monotony inevitable to the enumeration of constitutional provisions is avoided.

In the last sixty pages of his book the author gives the conclusions reached after an examination of the various forms of union. He finds little difficulty in showing the weakness of the ordinarily accepted distinction between the Federation and the Confederation, as well as the inadequacy of the less common definitions which have been advanced from time to time, especially that of the eminent German jurist, Professor Paul Laband. The characteristic difference between Confederation (Staatenbund) and Federation (Bundesstaat) he claims does not lie in the scope of governmental powers *as such*, nor in the organization of the federal power, nor in the action of the federal government *as such*; it lies rather in the method of amending the constitution and the self-dependence of the federal government.

All the unions which have usually been classified as confederations agree in demanding the unanimous consent of all the States to a change of the constitution, whereas the federations, while they adopt a variety of forms of amendment, do not require unanimity. We find, moreover, that the classification does not differ if we go farther and consider the historical unions from the standpoint of the power possessed by the central government to maintain itself and perform its proper functions without depending upon the individual States, especially in the matter of revenue. Self-sufficiency and independence are therefore the most important distinguishing features of a

federation. This implies (1) more extensive powers than those granted to the central government of a confederation; (2) an appropriate organization which, however, varies greatly in different cases; (3) the union must not be dependent on the States for the promulgation of its laws and the carrying out of its executive judicial measures. The author regards it as desirable that the federal legislation should be executed by the federal organs and not by the states, and that the legislative and judicial power should be co-extensive, and that the federal courts have the final decision upon the constitutionality of all laws. In these respects the Swiss Federation and the German Empire are behind the other federations, for in Germany the legislation and supervision only is vested in the central government, while much of the execution of the laws, according to the constitution, falls to the state governments. Lastly, the previously mentioned possibility of altering the constitution without the unanimous consent of the States is a requisite of every strong progressive government.

These views the author does not claim are original, but are substantially in harmony with those of the Federalist. He takes great pains to show the inaccuracy of the generally accepted view of the difference between Confederation and Federation, that based upon the supposed fact that Confederations act only on the States and Federations upon the individuals of the States. This is, as he proves, *not* the view accepted by the Federalist where it is carefully demonstrated (No. 40), that under the Articles of Confederation Congress acted in some cases directly upon the individual, while on the other hand our present constitution provides in some instances for the action of the central government through the State governments. Dr. Westerkamp proves how misleading a classification upon this ground would be. The difference is a quantitative not a qualitative one. It ought to be said that the author, in spite of his admiration for the Federalist and an evident careful acquaintance with it, appears to miss the main intent of the work which was not primarily to contrast the then existing Confederation with the proposed Federation, but to prove to the suspicious States that the new government was not a *national*, *i. e.*, a unitary government which would practically annihilate them. For example, in a passage which our author himself quotes (Federalist No. 39), Madison speaks of "the difference between a federal and a *national* government." The Federalist ought always to be construed in the light of Elliots' Debates.

But is not the task after all of determining the characteristics which serve to distinguish a Federation from a Confederation (Bundesstaat from Staatenbund), if we conscientiously consider the multifarious forms which the composite State has assumed historically in modern

times, so difficult as to suggest some defect in our method of classification? Is it not after all as if we should try to classify all colors as light and dark? Where should we place crimson, violet and orange? We would soon give up in despair and adopt some other plan. For if we look at all the various shades we are soon convinced that the categories, light and dark, which are very useful and often quite clear, have no scientific value. Ought we not to give up the vain hope of crowding all the varying forms of union into just *two* classes, attaching names to these classes as vague as the terms light and lighter? The United States passed through two stages in the development of the present union, the earlier one we call a confederation, the present one a federation. But no one has ever discovered a satisfactory definition of these two forms. How impossible then to attempt to assimilate the dozen other composite States which have developed independently since our present government to the two ill-defined types of our own experience?

Dr. Westerkamp's excellent work affords the best substantiation of this view. The definition he reaches is after all vague, and while certainly an advance over those usually accepted, the main value of his work is to show that governments, like men, offer infinitely varying peculiarities, which preclude a rigid classification.

JAMES HARVEY ROBINSON.

NOTES.

PROFESSOR TURNER, of the University of Wisconsin, has recently published an article on "The Significance of the Frontier in American History," * that contains much which the economist and historian will find interesting and instructive. Professor Turner rightly holds that "the true point of view in the history of this nation is not the Atlantic coast, it is the great West." The central thought in the article is that "the advance of the frontier has meant a steady movement away from the influence of Europe, a steady growth of independence on American lines. And to study this advance (and its causes), the men who grew up under these (frontier) conditions, and the political, economic, and social results of it, is to study the really American part of our history." The article is written in Professor Turner's usually felicitous style, and is enhanced in value by copious references, in foot-notes, to authorities.

THE AMERICAN PEACE SOCIETY of Boston has offered three prizes of \$100, \$50 and \$25 respectively, to the members of the Senior and Junior classes in American colleges and universities for the best three essays on the "Economic Waste of War." According to the conditions of the contest, each college shall submit but one essay, the choice between the essays written by the students of that college to be made by its faculty. The essays shall be type-written and contain from 2000 to 3500 words and must be submitted to the society on or before July 15, 1894.

IN CONNECTION with the Midwinter Fair in San Francisco it is intended to hold a series of congresses, of which one will be a Congress of Economics and Politics. It will meet near the end of April.

MR. CLIFFR LESLIE, writing in the *Fortnightly Review* in 1880, remarked that in America itself none but the disciples of Carey would

* *The Significance of the Frontier in American History*, by FREDERICK JACKSON TURNER, Ph.D., Professor of American History in the University of Wisconsin. Pp. 34. State Historical Society of Wisconsin, Madison, 1894.

pretend that Americans had made any considerable additions to stock of economic knowledge. Professor Luigi Cossa, twelve years later, in the pages of the *Giornali degli Economisti*, declared that Americans had created an economic literature which is interesting and instructive to the European economist. Both statements would probably command general acquiescence, and, taken together, they indicate that in America the last decade has been one of unusual and fruitful activity. Aside from the publication of formal treatises on economics, those who have accomplished these results have found two effective means of bringing their ideas to the public, viz., the economic reviews and the annual meetings of the Economic Association. From the standpoint of the student who wishes to get into close contact with the sources of the new ideas and systems there are obvious drawbacks to both these agencies. The article published in an economic review is useful, but it is divorced from the personality of the writer, who has therefore no opportunity to answer trifling objections, serious enough, it may be, to prevent conviction in the mind of the reader, but not serious enough to justify the series of replies and rejoinders which are sometimes called forth. The Economic Association does permit personal acquaintance and discussion of the propositions presented, but the time is necessarily so limited that no single speaker has an opportunity to present his ideas otherwise than in meagre outline. It is now proposed to provide an additional opportunity for the presentation of theoretical and applied economics in connection with the University Extension Summer Meeting, which is held annually in Philadelphia in the month of July. At that time in the year those regularly at work in the universities and colleges, whether as instructors or students, can most easily lay aside routine duties and gather for a month's serious discussion. The University Extension authorities propose to offer a series of lecture-courses and conferences by a half-dozen or more of the foremost economists. Each lecturer will have sufficient time to develop the essentials of his own system, and in view of the character of the students who will be certain to be attracted by such courses, it is doubtful if he could have more favorable conditions for the presentation of new economic truth. None have done more to promote the vigorous and healthy growth of economics in the United States in recent years than Professor J. B. Clark, of Amherst College, who is this year president of the American Economic Association, Professor Simon N. Patten, of the University of Pennsylvania and Professor F. H. Giddings, of Bryn Mawr College, recently called to the head of the Department of Sociology in Columbia College. They are everywhere recognized as leaders both in originality and in influence, and both are peculiarly associated with

the development of the newer economics, to which the chief contributions on the Continent of Europe have been made by the Austrian economists.

Professor Clark, Professor Giddings and Professor Patten will offer courses of about ten lectures each in economic theory. Professor Patten will present in a more complete form than elsewhere his system of Dynamic Economics, Professor Clark will discuss the subject of Distribution, and in one week of his course develop more fully the ideas first suggested in his "Philosophy of Wealth." Professor Giddings will discuss the relation between Sociology and Political Economy and other social sciences, and will consider what re-arrangement of the subdivisions of political economy are made necessary by the results of recent study. President E. Benjamin Andrews, of Brown University, the weight of whose influence has been thrown in favor of bimetallism, will discuss the theory of money from the bi-metallic standpoint and will give an account of the proceedings of the Brussels Monetary Conference of which he was a member. Professor J. W. Jenks, of Cornell University, Professor A. T. Hadley, of Yale University, and other prominent economists whose subjects have not yet been announced will take part in the meeting.

A RECENT WORK* by Paul Bureau is a thoroughly diverting pamphlet. It is so characteristically French, that is, French of the superficial order. It begins, as most works of its kind do, with an apostrophe to the "positive method" in social science. There follows a statement of the problem under investigation, to wit, the fall in the rate of interest. We are told with some solemnity that the question is one of great mystery, as yet unsolved even by M. Leroy Beaulieu. There follows a brief historical résumé of the progress of the rate of interest, when presto, *une conclusion très nette s'en dégage!* This astounding conclusion is, that the cause of the fall in the rate of interest is an aggregation of capital by commerce without a corresponding field of investment for it in agriculture or manufactures. The conclusion is the more surprising from the fact that the author states at the outset, that a mere increase in the supply of capital relative to the demand is no explanation of the fall in the rate of interest. He is avowedly seeking some more radical explanation. And so finding that a developed commerce and a low rate of interest have gone hand in hand, he leaps to the unwarranted conclusion that a highly developed commerce

* *La Diminution du Révenu.* By PAUL BUREAU, Professeur suppléant à la Faculté libre de Droit de Paris. Pp. 131. Paris, 1893.

is the cause of the low price of capital. The converse, that plenteous capital seeks an outlet through extended commerce, would be nearer the truth. But even his illogical conclusion does not satisfy him. Why, he asks, is capital so rapidly accumulated in commerce? And he replies, because commerce simply amasses goods without consuming them. Here he has misconceived the nature of economic consumption, and fallen into another error. He shows some qualms even then. He admits that manufactures do not consume all their raw material (here misusing the term consumption again), and argues that thus capital may be in some slight degree accumulated outside of commerce. But this, he thinks, is not worth serious attention; and concludes his comedy of economic errors with his "*conclusion très nette*" that an extended commerce is the ultimate cause of the fall in the rate of interest.

MISCELLANY.

THE NATIONAL CONFERENCE FOR GOOD CITY GOVERNMENT.

A National Conference for Good City Government was held in Philadelphia on Thursday and Friday, January 25 and 26, of this year. The idea of the conference originated with the Municipal League of Philadelphia, and the conference was called under the joint auspices of that body and the City Club of New York.

The following is a copy of the call which was sent out for the conference:

THE MUNICIPAL LEAGUE OF PHILADELPHIA.

PHILADELPHIA, December 29, 1893.

DEAR SIR:

THE MUNICIPAL LEAGUE OF PHILADELPHIA, with the co-operation of the CITY CLUB OF NEW YORK, has decided to issue a call for a NATIONAL CONFERENCE FOR GOOD CITY GOVERNMENT, to be held in Philadelphia on the twenty-fifth and twenty-sixth days of January, 1894.

The principal objects of the Conference will be to determine, so far as is possible by inquiry and debate, the best means for stimulating and increasing the rapidly growing demand for honest and intelligent government in American cities, and to discuss the best methods for combining and organizing the friends of Reform so that their united strength may be made effective.

The program for the papers and discussions, as at present outlined (subject to possible changes), is as follows:

First.—A brief summary of existing conditions in different cities, and a description of Municipal Government and Municipal Officials as they ought to be.

Second.—Methods for obtaining better government without resorting to the nomination or support of independent candidates.

Third.—Methods that involve the nomination or support of independent candidates.

Further details will be mailed hereafter to those proposing to attend.

You are respectfully invited to be present at the meetings and to take part in the discussions. It is believed that by attending this Conference, those who realize the vast importance of the problems to be discussed will accomplish much in arousing public interest, in raising the popular standards of political morality, and in securing for the advocates of Municipal Reform that feeling of brotherhood and co-operation and that unity of action and methods, which will multiply their strength and enthusiasm, and inspire the people with the hope and confidence essential to final success.

If you are an officer of any association of voters, which has for one of its objects the improvement of Municipal Government or the proper management of city affairs, we shall be greatly obliged if you will at once do whatever may be necessary to extend this invitation to such organization, and procure the appointment of delegates to attend the Conference. It is our desire to have copies of this letter

sent to the secretaries of all associations of a kindred character in the United States, but there may be many whose addresses are unknown to us, and we shall, therefore, be very glad to receive any that you can furnish.

An early response is specially requested, as our time for preparation is brief. Letters may be directed to the Corresponding Secretary of the League—Clinton Rogers Woodruff, 514 Walnut Street, Philadelphia, Pa.

Very respectfully,

Charles Richardson,	Edmund J. James,	Herbert Welsh,
Stuart Wood,	William I. Nichols,	Clinton Rogers Woodruff,
George Burnham, Jr.,	Francis B. Reeves,	Thomas Martindale,
S. D. McConnell,	W. M. Salter,	George Gluyas Mercer,
Joseph G. Rosengarten,		R. Francis Wood, <i>Committee of Arrangements.</i>

Edmond Kelly,
John Harsen Rhoades,
R. Fulton Cutting,

Committee of City Club of New York.

We desire to express our cordial approval of the call issued by the Municipal League of Philadelphia for a National Conference for Good City Government, to be held in Philadelphia on the twenty-fifth and twenty-sixth days of January, 1894. Appreciating the vital importance, as well as the difficult nature, of the problems to be discussed, we sincerely hope that those who have given particular attention to such subjects will make special efforts to attend the Conference.

James C. Carter, President of the City Club of New York.
Edmond Kelly, Secretary of the City Club of New York.

Charles Francis Adams, Boston.	R. W. Gilder, New York.
Theodore Roosevelt, Washington, D. C.	Carl Schurz, New York.
Richard H. Dana, Boston.	Charles W. Eliot, Cambridge, Mass.
Charles J. Bonaparte, Baltimore Md.	Abram S. Hewitt, New York.
Henry C. Lea, Philadelphia.	Lyman J. Gage, Chicago.
Charles A. Schieren, Brooklyn.	Wayne MacVeagh, Philadelphia.
Charles Eliot Norton, Cambridge, Mass.	Washington Gladden, Columbus, O.
George W. Childs, Philadelphia.	Daniel C. Gilman, Baltimore, Md.
Gamaliel Bradford, Boston.	Lyman Abbott, New York.
Moorfield Storey, Boston.	Richard T. Ely, Madison, Wis.
Matthew Hale, Albany, N. Y.	Alexander Brown, Philadelphia,
L. Clarke Davis, Philadelphia.	Francis A. Walker, Boston.
R. Fulton Cutting, New York.	Edward E. Hale, Boston.
Horace White, New York.	John R. Procter, Washington, D. C.
William G. Low, Brooklyn.	Edwin L. Godkin, New York.
Edward M. Shepard, Brooklyn.	Wendell P. Garrison, New York.
John Field, Philadelphia.	William Potts, New York.
Fred'k Law Olmstead, Brookline, Mass.	W. Harris Roome, New York.
Philip C. Garrett, Philadelphia.	H. B. Adams, Johns Hopkins University.
Samuel B. Capen, Boston.	Wm. J. Gaynor, Brooklyn.
Isaac Sharpless, Haverford College, Pa.	Sylvester Baxter, Boston.
Ansley Wilcox, Buffalo, N. Y.	Hampton L. Carson, Philadelphia.
Finley Acker, Philadelphia.	Theodore M. Etting, Philadelphia.
Edward Cary, Brooklyn.	Ellis D. Williams, Philadelphia.
John B. Garrett, Philadelphia.	O. W. Whitaker, Philadelphia.
Joel J. Baily, Philadelphia.	W. W. Frazier, Philadelphia.
J. Andrews Harris, Philadelphia.	Wm. Dudley Foulke, Richmond, Ind.
Joseph Krauskopf, Philadelphia.	H. La Barre Jayne, Philadelphia.
Edwin D. Mead, Boston.	John H. Converse, Philadelphia.

Charles C. Harrison, Philadelphia.	Wm. P. Henszey, Philadelphia.
Isaac J. Wistar, Philadelphia.	Horace E. Deming, New York.
Everett P. Wheeler, New York.	Anson Phelps Stokes, New York.
Jacob F. Miller, New York.	Alfred Bishop Mason, New York.
Seth Sprague Terry, New York.	A. R. MacDonough, New York.
Samuel H. Ordway, New York.	Charles R. Codman, Barnstable, Mass.
James S. Whitney, Philadelphia.	George Burnham, Philadelphia.
Franklin MacVeagh, Chicago.	J. Rodman Paul, Philadelphia.
R. C. McMurtrie, Philadelphia.	James E. Rhoads, Bryn Mawr.
Joseph S. Harris, Philadelphia.	E. W. Clark, Philadelphia.
Marshall Field, Chicago.	William Pepper, Philadelphia.

It will be a matter of satisfaction to members of the Academy to remember that our society was one of the first scientific organizations to give any recognition to the plans and work of the Municipal League of Philadelphia. It will also be remembered that the Tenth Scientific Session of the Academy, held on the twenty-fourth of November, 1891, was devoted to a discussion of the question—"How to Improve City Government." Two of the papers read at that session, the one by Mr. F. P. Prichard, on "The Study of Municipal Government," and the other by Dr. William Draper Lewis, on "The Political Organization of the Modern Municipality," were printed in full in the January number of the *ANNALS* for 1892, and were subsequently reprinted in the separate edition series as numbers 43 and 44; while in the same number the by-laws and declaration of principles of the Municipal League were printed in full.

These are not the only papers which have been submitted to the Academy upon the interesting question of municipal government. The paper by Professor Simon N. Patten, on "Decay of State and Local Governments," printed in the first number of the *ANNALS* for July, 1890 (No. 2 in the S. E. series); "Public Health and Municipal Government," by Dr. John S. Billings, which appeared as a supplement to the *ANNALS* in February, 1891 (No. 17 in the S. E. series); "Our Failures in Municipal Government," by Gamaliel Bradford, printed in the *ANNALS* for May, 1893 (No. 88 in the S. E. series); "Home Rule for our American Cities," by Dr. E. P. Oberholtzer, printed in the same number of the *ANNALS* (No. 90 in the S. E. series); and the paper on "Some Neglected Points in Municipal Government," by Dr. Leo S. Rowe, read at the Twenty-first Scientific Session of the Academy on December 20, 1893, not yet printed, form, when taken together, a most valuable contribution to the literature on municipal government.

It is a matter of satisfaction that one of the most active members of the Academy from the beginning of its work, Mr. Clinton Rogers Woodruff, has done also valued service in the work of developing the Municipal League. Mr. Woodruff has been secretary of the Municipal

League from its organization, and was also appointed secretary of the recent national conference held in Philadelphia.

The program of the conference was carried out almost exactly as it was announced. Delegates appeared from New York, Brooklyn, Boston, Chicago, Baltimore, Milwaukee and many other cities.

Hon. James C. Carter, of New York, presided over the meetings of the conference. A public meeting, presided over by Hon. John Field, was held on Friday evening, and a banquet was tendered the visiting delegates by the local committee on Thursday evening.

A congratulatory address was delivered at the opening of the conference by Hon. James C. Carter, followed by an address of welcome by Mr. George Burnham, Jr., President of the Municipal League of Philadelphia. At the morning session on Friday, a series of addresses on the municipal problem in various cities was given by delegates from Municipal, Good Government and Reform Clubs of their respective cities: Mr. Moorfield Storey answered for Boston, Mr. William G. Low for Brooklyn, Mr. Franklin MacVeagh for Chicago, Mr. Charles Jerome Bonaparte for Baltimore, Mr. George G. Mercer for Philadelphia, and Mr. Edmond Kelly for New York.

In the afternoon Dr. Leo S. Rowe, of the Wharton School of Finance and Economy, spoke on the city of Berlin as a municipality; Hon. Carl Schurz, of New York, on "The Relation of Civil Service Reform to Municipal Reform;" Mrs. Joseph P. Mumford, a member of the Philadelphia School Board, on "The Relation of Women to Municipal Reform;" Mr. W. Harris Roome, of New York, on "The Separation of Municipal from other Elections."

The speeches at the banquet given on Thursday evening were of more than the ordinary after-dinner interest, for Mayor Stuart, of Philadelphia, Mayor Schieren, of Brooklyn, Mr. R. W. Gilder, editor of the *Century Magazine*, Hon. James C. Carter, Professor George W. Graham, of the University of Pennsylvania Law School, Mr. Horace E. Denning, of New York, Mr. Sylvester Baxter, of the Boston *Herald*, Mr. James M. Beck, Mr. W. Harris Roome made, in the course of their remarks, many valuable suggestions on the subject of municipal government.

The session Friday morning was introduced by a paper from Rev. Washington Gladden, of Columbus, O., on "Influence upon Officials in Office." This was followed by two addresses on "How to Arouse Public Sentiment in Favor of Good City Government," the first by Edwin D. Mead, editor of the *New England Magazine*, entitled "By Means of Education," the second by Rev. Dr. J. H. Ecob, of Albany, "By Means of the Churches."

On Friday afternoon the subject was "How to Bring Public Sentiment to Bear Upon the Choice of Good Public Officials." The first

paper was by Mr. Alfred Bishop Mason, of New York, on the subject, "Through the Primaries;" the second by Mr. Samuel B. Capen, of Boston, "By Means of Selection from the Candidates of the Regular Parties and by Means of Occasional Nomination of Independent Candidates." As Mr. Capen was absent, Rev. F. B. Allen, Secretary of the Episcopal City Mission of Boston, read Mr. Capen's paper. The third paper was by Mr. Charles Richardson, of Philadelphia, entitled "By Permanent Political Parties." Mr. John A. Butler, of Milwaukee, also read a paper on "Municipal Conditions in Milwaukee."

In order to test the sentiment of the conference, Mr. Horace E. Deming offered a resolution that it was the opinion of the Conference that it is vital to good municipal government that national politics should be divorced from city elections and the administration of city affairs. The resolution was unanimously adopted.

A resolution was also adopted providing for the appointment of a committee of seven to take into consideration the desirability of forming a National Municipal League, with authority to proceed to the organization of such a body if in their judgment it seemed best.

The committee appointed is: Herbert Welsh, of Philadelphia, chairman; Charles G. Richardson, of Philadelphia; James C. Carter, Wm. Harris Roome and James W. Pryor, of New York; Moorfield Storey, of Boston; Charles J. Bonaparte, of Baltimore, and Franklin MacVeagh, of Chicago.

A public meeting was held on the evening of Friday, the 27th, at which the Hon. John Field, of Philadelphia, presided; the Rev. Dr. W. S. Rainsford, of New York, Mr. Charles J. Bonaparte, of Baltimore, Mr. Moorfield Storey, of Boston, and the Hon. Theo. Roosevelt, of the National Civil Service Commission, delivered addresses. Dr. Rainsford spoke on "The Churches and Municipal Reform;" the Hon. Theodore Roosevelt on "Practical Methods for Securing Political Reform."

It lay in the nature of the situation that no immediate practical outcome should be the result of this Conference. But every citizen who was privileged to attend this Conference must have rejoiced at the evidence of growing interest in the great field of municipal government. There were, of course, many different opinions as to the practical methods of securing the end desired, but all agreed as to the necessity of arousing public attention and educating public sentiment, if our city governments are to be improved. No subtle devices or complicated machinery will be of any avail unless the sense of civic duty can be aroused in the average citizen. The proceedings will be published in full.

Among those taking part in the discussion, besides those mentioned above were: Mr. W. J. Campbell, of New York; Mrs. J. Ellen Foster,

of Iowa; Mr. David W. Glass, of Baltimore; Mr. Robert H. Graham, of New York; Professor D. S. Holman; Mrs. Thomas Kirkbride, of Philadelphia; Mr. L. A. Maynard, of New Rochelle, N. Y.; Mr. Joe A. Miller, of Providence, R. I.; Rev. W. I. Nichols, of Philadelphia; Mr. John H. Rhoades, of New York; Rev. J. Howard Smith, of Philadelphia; Mr. Charles W. Watson, of New York; Mr. Herbert Welsh, of Philadelphia; Dr. Frances E. White, of Philadelphia; Rev. Leighton Williams, of New York; Rev. T. C. Williams, of New York; Mr. Geo. G. Wright, Cambridge, Mass.

The following is a list of the delegates in attendance upon the Conference:

Municipal League of Philadelphia—George Burnham, Jr., Ch. Richardson, Thomas B. Prichett, Clinton Rogers Woodruff, I. Acker, Herbert Welsh, Stuart Wood, William Draper Lewis, Gawthrop, Dr. John B. Roberts, Rev. William I. Nichols, J. Croasdale, B. Frank Clapp, Rev. S. D. McConnell, George G. Hector McIntosh, Rev. Joseph May, H. Gordon McCouch, Cook, George E. Mapes, Frank P. Prichard, Prof. Edmund J. R. Francis Wood, Lincoln L. Eyre, Francis B. Reeves, W. M.

City Club of New York—James C. Carter, John Harsen Rhoades, Fulton Cutting, Frederick Bronson, Boudinot Keith, Rev. Theo. C. Williams, Eugene L. Lentillon, Richard Watson Gilder, Rev. W. S. Rainsford, Wm. Bayard Cutting, Rev. Eugene A. Hoffman, Edmond Kelly.

Good Government Club A, New York—Wm. Harris Roome, De Forest Grant.

Good Government Club B, New York—Royal S. Crane, Dr. John P. Peters, Louis C. Whitin, Henry R. Elliott.

Good Goverment Club C, New York—John Jay Chapman.

Good Government Club D, New York—Charles Taber, R. W. G. Welling.

Good Government Club E, New York—W. J. Campbell, Robert Graham, L. J. Callanen, T. C. Harriott, Charles M. Perry, E. F. Bliss, Jr., John B. Faure, R. C. Carroll.

Civil Service Reform Association—Carl Schurz, Horace E. Deming, Wm. Potts, J. H. C. Nevins, Alfred Bishop Mason.

Baltimore Reform League—Charles Morris Howard, Charles J. Bonaparte, Henry W. Williams, Wm. J. Dickey, Dr. Adam J. Gorman, Richard Bernard, Dr. Sidney Sherwood, Larason Riggs.

Baltimore Taxpayers' Association—Henry N. Bankard, Michael A. Mullin, Edward Stabler, Jr., Dr. Milton Hammond, Benj. F. Walker.

Citizens' Reform Movement of Baltimore—W. Morris Orem, Walter Carrington, James J. McNamara, Frederick W. Schultz, Robert Roddy.

Union League of Chicago—Wm. A. Giles.

Boston Citizens' Association—W. W. Vaughn, Charles W. Birtwell.

Civil Service Reform Association of Cambridge, Mass.—George G. Wright.

Advance Club, Providence, R. I.—Joseph A. Miller, Samuel W. Kilvert, Hiram Howard.

Board of Trade, Minneapolis—A. L. Crocker, J. S. McLain.

Municipal League, Milwaukee—John A. Butler.

Library Hall Association of Cambridge—George G. Wright.

Massachusetts Reform Club of Boston—Moorfield Storey.

Jefferson Club of New Orleans—F. C. Zacharie, Prof. J. R. Ficklin. American Institute of Civics—Dr. H. R. Waite, Rev. M. C. Peters, Mr. S. Logan, LaSalle A. Maynard.

Good Government Club, Yonkers, N. Y.—Datus C. Smith, Alexander Laird, Frederick Wm. Holls, S. T. Hubbard.

Brooklyn Civic Club of New York—Edward King, Charles B. Spahr. Friends' League of Camden, N. J.—Col. Samuel Hufty, Dr. Silas H.

of Trade, Reading—Geo. J. Eckert.

Presbyterian Ministers' Association of Philadelphia—Revs. John S. MacIntosh, D. D., William H. Roberts, D. D., William Hutton, D. D., Andrew J. Sullivan, D. D., Robert Hunter, D. D.

Temple Congress, Philadelphia—Evan B. Lewis, Augustus Reimer.

Public Opinion Club, Philadelphia—Wm. C. Davis, Dr. Jump, Frank B. Boon.

In addition to the above delegates, the following invited guests were present at the Conference:

Boston—Sylvester Baxter, of the *Herald*, Rev. F. B. Allen, Edwin D. Mead, of the *New England Magazine*, George P. Morris, of the *Congregationalist*. Baltimore—W. H. W. Kelmen, David Horn, C. Glaser, D. W. Glass. New York—Rev. Leighton Williams, C. W. Watson, Rev. W. S. Ufford, A. G. Gerring. Brooklyn—Wm. G. Low, Hon. Chas. F. Schieren, Thos. G. Shearman, A. Augustus Healy. Chicago—Franklin McVeagh and F. N. Voorhees. Lafayette College, E. D. Warfield. Albany, N. Y.—Rev. J. H. Ecob. Kansas City, Mo.—T. W. Johnson, Jr. and F. W. MacDonald. Columbus, O.—Rev. Washington Gladden. Hartford, Conn.—Arthur Perkins. Brown University—Geo. G. Wilson. Cornell University—J. W. Jenks. Montclair, N. J.—Kirk Brown. Millville, N. J.—Jos. A. Haines. Camden, N. J.—F. T. Lloyd.